

## EXHIBIT “5”

## **First Judicial District of Pennsylvania**

*01101488*  
*Kareem Torain*

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*Trial (Jury) Volume 1*  
*May 06, 2002*



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*First Judicial District of Pennsylvania*  
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[1] IN THE COURT OF COMMON PLEAS  
[2] FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
[3] CRIMINAL TRIAL DIVISION  
[4] \_\_\_\_\_  
[5] COMMONWEALTH : OCTOBER TERM, 2001  
[6] vs. :  
[7] KAREEM TORAIN : NO. 1488 1/3  
[8] \_\_\_\_\_  
[9] COMMONWEALTH : OCTOBER TERM, 2001  
[10] vs. :  
[11] ANTHONY HODGES : NO. 1488 2/3  
[12] \_\_\_\_\_  
[13] MOTION TO SUPPRESS  
[14] May 6, 2002  
[15] \_\_\_\_\_  
[16] Room 802, Criminal Justice Center  
[17] Philadelphia, PA  
[18] \_\_\_\_\_  
[19] BEFORE: HONORABLE STEVEN R. GEROFF, JUDGE  
[20] \_\_\_\_\_  
[21] \_\_\_\_\_  
[22] \_\_\_\_\_  
[23] \_\_\_\_\_  
[24] \_\_\_\_\_  
[25] \_\_\_\_\_

[1] PRESENT:  
[2] LOUISA ROBINSON, ESQ.  
[3] Assistant District Attorney  
[4] For the Commonwealth  
[5] EDWARD C. MEEHAN, JR., ESQ.  
[6] For Defendant Kareem Torain  
[7] \_\_\_\_\_  
[8] GIOVANNI CAMPBELL, ESQ.  
[9] For Defendant Anthony Hodges  
[10] \_\_\_\_\_  
[11] \_\_\_\_\_  
[12] \_\_\_\_\_  
[13] \_\_\_\_\_  
[14] \_\_\_\_\_  
[15] \_\_\_\_\_  
[16] \_\_\_\_\_  
[17] \_\_\_\_\_  
[18] \_\_\_\_\_  
[19] \_\_\_\_\_  
[20] \_\_\_\_\_  
[21] \_\_\_\_\_  
[22] \_\_\_\_\_  
[23] \_\_\_\_\_  
[24] \_\_\_\_\_  
[25] \_\_\_\_\_

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[23] \_\_\_\_\_  
[24] \_\_\_\_\_  
[25] \_\_\_\_\_

[1] (Discussion in chambers off the  
[2] record)  
[3] \_\_\_\_\_  
[4] THE COURT: All right. We're going  
[5] to sequester all witnesses. Any witnesses for  
[6] the Commonwealth.  
[7] MS. ROBINSON: All witnesses are  
[8] outside, Your Honor.  
[9] THE COURT: Any witness for either  
[10] the defendant in the courtroom?  
[11] MR. CAMPBELL: No.  
[12] MR. MEEHAN: No.  
[13] THE COURT: Ms. Robinson, I'm sorry.  
[14] MS. ROBINSON: Judge, I've spoken to  
[15] both counsel and my understanding of the Motion  
[16] to Suppress is that my officers didn't have  
[17] probable cause to stop and arrest these  
[18] defendants who are Kareem Torain, sitting to  
[19] the left of his counsel, Mr. Meehan, and  
[20] Anthony Hodges to the left of his counsel, Mr.  
[21] Campbell.  
[22] THE COURT: Is that so, counsel? Is  
[23] that the basis for these motions?  
[24] MR. CAMPBELL: Yes, Your Honor.  
[25] MR. MEEHAN: Yes, Your Honor.

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[1]  
[2] **MS. ROBINSON:** My understanding is  
[3] that there are no motions to suppress drugs  
[4] which were recovered pursuant to search  
[5] warrants from three observations, 5605, 5607  
[6] Master Street, and 1628 North 55th Street.  
[7] **THE COURT:** Is that so, counsel, both  
[8] counsel?  
[9] **MR. CAMPBELL:** That's correct, Your  
[10] Honor.  
[11] **MR. MEEHAN:** Yes.  
[12] **THE COURT:** All right. So we're here  
[13] with the one motion?  
[14] **MS. ROBINSON:** Right. So my  
[15] understanding, the items that were recovered  
[16] from Mr. Torain actually consisted of keys.  
[17] **MR. MEEHAN:** Yes.  
[18] **MS. ROBINSON:** To the location that  
[19] fit 1628 North 55th Street as well as money.  
[20] **MR. MEEHAN:** That's correct.  
[21] **THE COURT:** All right.  
[22] **MS. ROBINSON:** And the same thing  
[23] with Mr. Hodges, he also had keys on his  
[24] person.  
[25] **MR. CAMPBELL:** For the property of

[1]  
[2] 5607.  
[3] **MS. ROBINSON:** So I have Officer  
[4] Monaghan and Officer Reynolds I believe with  
[5] respect to that motion as to whether or not  
[6] they made sufficient observations and Officer  
[7] Reynolds actually stopped. I just want to be  
[8] clear. I have other officers.  
[9] **THE COURT:** Okay.  
[10] **MS. ROBINSON:** So I'm ready to  
[11] proceed, Judge.  
[12] **THE COURT:** Okay. Thank you.  
[13] All right. Call your first witness.  
[14] **MR. MEEHAN:** I just wanted to put on  
[15] the record just so we don't have any problems  
[16] that consistent with what Ms. Robinson  
[17] represented, that, yes, pursuant to Article 1,  
[18] Section 8 of the Pennsylvania Constitution as  
[19] well as the Fourth Amendment that I am moving  
[20] on behalf of Mr. Kareem Torain to suppress  
[21] items that were seized from his person on the  
[22] 4th of January, 2001, because he was subjected  
[23] to a stop, a search of his person.  
[24] **THE COURT:** Oh, is that a witness in  
[25] the case?

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[1]  
[2] **COURT CRIER:** Police officers.  
[3] **MR. MEEHAN:** As well as a full  
[4] custodial search and arrest of his person that  
[5] was not supported by probable cause.  
[6] **THE COURT:** Okay.  
[7] **MS. ROBINSON:** Judge, there's a  
[8] stipulation with respect to the testimony of  
[9] one officer, I'm going to sign him out, and  
[10] that would be Officer Fitzgerald. And Officer  
[11] Monaghan is my first officer.  
[12] **THE COURT:** Okay.  
[13] ...OFFICER BRIAN MONAGHAN, Badge  
[14] Number 6061, Narcotics Field Unit, sworn...  
[15] **MS. ROBINSON:** Judge, I just  
[16] wondered, this individual walked in, I don't  
[17] know if he's a defense witness.  
[18] **THE WITNESS:** No.  
[19] **THE COURT:** Is he connected with the  
[20] case?  
[21] **MR. MEEHAN:** No.  
[22] **THE COURT:** Okay. Very well. You  
[23] may proceed.  
[24] **MS. ROBINSON:** Thank you.  
[25]

[1]  
[2] **DIRECT EXAMINATION**  
[3] **BY MS. ROBINSON:**  
[4] **Q.** Officer Monaghan, I'd like to direct your  
[5] attention to January 2nd, 2001. On that date did  
[6] you have occasion to begin an investigation into  
[7] the illegal sale of narcotics in the area of 56th  
[8] and Master Streets in Philadelphia?  
[9] **A.** Yes, I did.  
[10] **Q.** And specifically how long have you been a  
[11] Philadelphia police officer?  
[12] **A.** At that time about 12 and a half years.  
[13] **Q.** And how long have you been assigned to  
[14] investigate illegal narcotic sales?  
[15] **A.** I was assigned to narcotics bureau about two  
[16] and a half years at that time.  
[17] **Q.** Now, on that date did you have occasion to set  
[18] up surveillance by yourself or with any other  
[19] individuals?  
[20] **A.** At that time I was with my partner, Police  
[21] Officer Shawn Kelly, K E L L Y, Badge Number 7126.  
[22] **Q.** And on that date where did you set up  
[23] surveillance?  
[24] **A.** I set up a surveillance in the 5600 block of  
[25] West Master Street in the city of Philadelphia.

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[1] Officer Monaghan - Direct  
[2] Q. Now, on that date how close to the target  
[3] addresses of 5605, 5607, and 5609 West Master  
[4] Street were you?  
[5] A. At that time I was directly right across the  
[6] street from them three locations.  
[7] Q. Now, at approximately 3:45 p.m. did you have  
[8] occasion to see any person or persons whom you see  
[9] here today engaged in any kind of activity that you  
[10] believe to be the sale of illegal narcotics?  
[11] A. Yes, I did. Your Honor, about 3:40, I guess,  
[12] I pulled onto the location.  
[13] THE COURT: Is that a.m. or p.m.?  
[14] THE WITNESS: That's what, Your  
[15] Honor?  
[16] THE COURT: A.m. or p.m.?  
[17] THE WITNESS: P.m. I observed it was  
[18] two males, one male was in the blue shirt who  
[19] later IDed himself on the 4th of January as  
[20] Anthony Hodges and there is another male who on  
[21] the 4th IDed himself as Darnell Delee. Your  
[22] Honor, they were standing on the porch of 5605  
[23] West Master Street. About 3:45 p.m., Your  
[24] Honor, I observed the defendant in the blue  
[25] shirt go to the door, at which time the door

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[1] Officer Monaghan - Direct  
[2] A. Your Honor, at that time Hodges opened up the  
[3] golf ball size object, it was tied at the top, at  
[4] which time he gave the other male Delee numerous  
[5] small objects from that bundle, Your Honor.  
[6] Q. And where was Delee when he gave that to --  
[7] A. Standing right next to him on the porch right  
[8] by the step area.  
[9] Q. And then what, if anything, did you see those  
[10] two individuals doing, Hodges and Delee?  
[11] A. Your Honor, between the time like 3:45 and  
[12] about 5:12 to 5:30 I observed both males involved  
[13] in numerous narcotic transactions on the porch.  
[14] Q. When you say numerous narcotics transactions  
[15] that's a conclusion. What, if any, activity did  
[16] you see them engaged in that led to you  
[17] characterize it as a narcotics transaction?  
[18] A. Your Honor, individual people would walk up,  
[19] males and females, at which time they would walk up  
[20] to the top of the porch at the step area, have a  
[21] brief conversation with either Hodges, the  
[22] defendant in the blue shirt, or the other male,  
[23] Delee. Your Honor, after a brief conversation the  
[24] individuals would hand them unknown amount of U.S.  
[25] currency, at which time -- at that time Hodges

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[1] Officer Monaghan - Direct  
[2] opened.  
[3] THE COURT: For the record, is that  
[4] Mr. Hodges?  
[5] THE WITNESS: That's Mr. Hodges.  
[6] Hodges went to the door, Your Honor, knocked on  
[7] the door.  
[8] BY MS. ROBINSON:  
[9] Q. Of which number?  
[10] A. 5605 West Master Street.  
[11] Q. And can you describe what 5605 West Master  
[12] Street looks like to His Honor?  
[13] A. Your Honor, I would say an open porch. Just  
[14] east of it is an enclosed porch and the front door  
[15] would be closest to the enclosed porch.  
[16] Q. And then what happened once the defendant  
[17] Hodges knocked on that door 5605 West Master  
[18] Street?  
[19] A. Your Honor, out of that door an unknown black  
[20] male handed him a golf ball size object. Your  
[21] Honor, based on my experience as a police officer  
[22] and my knowledge of narcotics, I believed it to be  
[23] a bundle of crack cocaine.  
[24] Q. And then what, if anything, did you see the  
[25] defendant Hodges doing?

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[1] Officer Monaghan - Direct  
[2] would remove from that clear baggie small objects  
[3] and hand them to the males and females. Delee had  
[4] the packets inside his pocket, Your Honor, he would  
[5] hand them to the males. Each individual would  
[6] leave the area.  
[7] Q. And approximately how many buyers would you  
[8] say you witnessed?  
[9] A. Numerous. I would say more than 10.  
[10] Q. And then what happened at approximately 5:30  
[11] p.m.? Where, if anywhere, did you see this  
[12] defendant and Delee go?  
[13] A. Your Honor, about 5:12 I observed a gray  
[14] Oldsmobile pull up in the 5500 block of Master  
[15] Street right at the corner of 56th and Master.  
[16] Black male who was the passenger unknown to me at  
[17] that time exited that vehicle, walked up and had a  
[18] brief conversation with both males on the porch,  
[19] Hodges and Delee. After a brief conversation they  
[20] went inside of that property. Your Honor, that  
[21] male was carrying a black, looked like a kind of a  
[22] duffle bag or a knapsack in his hand. It was  
[23] rolled up in his hand, Your Honor. Your Honor, as  
[24] they went inside the property for about ten  
[25] minutes, that male exited that property, at which



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[1] Officer Monaghan - Direct  
[2] time I observed that he had a clear ziplock baggie,  
[3] pretty good size baggie, Your Honor. It was filled  
[4] with a green weed substance which I believed to be  
[5] marijuana. Your Honor, as he was exiting, he put  
[6] the bag from the porch, he was on the porch, he put  
[7] the bag inside the duffle bag and left the area.  
[8] Your Honor, at that time Delee took out U.S.  
[9] currency from his pants pocket, walked into 5609  
[10] Master Street and put the money down right by the  
[11] doorway. Your Honor, all three males, the house  
[12] that they exited was 5607 West Master Street. Your  
[13] Honor, at that time I notified my backup officers,  
[14] I gave the description and the direction of that  
[15] vehicle. That vehicle was observed going down into  
[16] the 4700 block of Marion where that vehicle was  
[17] lost in that area.  
[18] **THE COURT:** Marion Avenue?  
[19] **THE WITNESS:** Marion Avenue, Your  
[20] Honor.  
[21] **BY MS. ROBINSON:**  
[22] **Q.** And what happened to Hodges? Where did he  
[23] finally wind up?  
[24] **A.** Your Honor, I believe they left -- I believe  
[25] Hodges went back into 5607 and Delee just walked

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[1] Officer Monaghan - Direct  
[2] off of the porch.  
[3] **Q.** Now, was that the extent of your surveillance  
[4] on that day?  
[5] **A.** Yes, it is.  
[6] **Q.** Did you videotape any of the activity on that  
[7] date?  
[8] **A.** Not on that date, no.  
[9] **Q.** Based on your observations of what you saw  
[10] Hodges and Delee do, those two individuals, what  
[11] did you believe was occurring in that area of 5605  
[12] and 5607 West Master Street?  
[13] **A.** In that area they were conducting illegal  
[14] sales of narcotics.  
[15] **Q.** Now, did you have occasion to return on  
[16] Wednesday, January 3rd, 2001, and again set up a  
[17] surveillance for the locations of 5605, 5607, and  
[18] 5609 West Master Street?  
[19] **A.** Yes, I did.  
[20] **Q.** What time did you set up your surveillance on  
[21] that date?  
[22] **A.** It was about 11:00 a.m. in the morning.  
[23] **Q.** On that date did you have occasion to  
[24] videotape any of the activity you saw?  
[25] **A.** Yes, I did.

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[1] Officer Monaghan - Direct  
[2] **Q.** Would you tell Judge Geroff what equipment you  
[3] used on that date?  
[4] **A.** Your Honor, we had a hand held video camera  
[5] that we were videoing from our vehicle and I was  
[6] able to look, sometimes my partner videoed,  
[7] sometimes I was, it was kind of like a periscope  
[8] that we have on our vehicle and I was able to see  
[9] close to the area.  
[10] **Q.** Did you make a copy of that videotape?  
[11] **A.** Yes, I did.  
[12] **MS. ROBINSON:** At this time, Your  
[13] Honor, and I believe in agreement with defense  
[14] counsel who have been provided copies of the  
[15] videotape of both January 3rd and January 4th,  
[16] 2001, if Officer Monaghan relay his testimony  
[17] at the same time that he plays the videotape.  
[18] **THE COURT:** Any objection?  
[19] **MR. CAMPBELL:** No objection.  
[20] **THE COURT:** Okay.  
[21] **BY MS. ROBINSON:**  
[22] **Q.** Do you have the January 3rd tape in front of  
[23] you?  
[24] **A.** Yes, I do.  
[25] **MS. ROBINSON:** At this time I just

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[1] Officer Monaghan - Direct  
[2] ask that this be marked as Commonwealth's  
[3] Exhibit C-1A.  
[4] **THE COURT:** C-1A is?  
[5] **MS. ROBINSON:** January 3rd and I'll  
[6] be marking January 4th as C-1B.  
[7] **THE COURT:** Why not C-1 and C-2? I  
[8] think generally speaking court reporters prefer  
[9] it that way. Whatever makes the court reporter  
[10] happy is what I prefer. C-1 and C-2.  
[11] (Videotape marked Commonwealth's  
[12] Exhibits C-1 for identification)  
[13] (Videotape marked Commonwealth's  
[14] Exhibits C-2 for identification).  
[15] **MS. ROBINSON:** At this time I just  
[16] ask Officer Monaghan to just start that.  
[17] **THE COURT:** If you can tilt it so  
[18] that both the defendants and I can see them.  
[19] Thanks. Okay. Can you guys see? Would it be  
[20] better -- I think if you would close the  
[21] drapes, draw the drapes because there is a  
[22] glare from the windows.  
[23] Hold on. It's really a glare.  
[24] **COURT CRIER:** I think the light is  
[25] doing that, Judge.

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[1] Officer Monaghan - Direct  
[2] **THE COURT:** It might be the light,  
[3] but I see the window.  
[4] All right. I think that's better.  
[5] Can everybody see that? Okay.  
[6] **BY MS. ROBINSON:**  
[7] **Q.** Is that the beginning of the tape or was it  
[8] all the way rewound?  
[9] **A.** I believe it's the very beginning.  
[10] **MS. ROBINSON:** It's starts at 11:37,  
[11] Judge.  
[12] Here we are, Judge.  
[13] (Tape played).  
[14] **BY MS. ROBINSON:**  
[15] **Q.** Officer Monaghan, can you explain to His Honor  
[16] when you started recording and if you were  
[17] recording continuously throughout your surveillance  
[18] on January 3rd, 2001?  
[19] **A.** Your Honor, we were trying to get the camera  
[20] situated, so between 11:00 and 11:30 I was trying  
[21] to get the camera situated. I'm going to have to  
[22] fast forward just a little bit, Your Honor. We  
[23] were trying to get the camera situated from our  
[24] vehicle and trying to get it zoomed in.  
[25] **Q.** And would you tell the judge what time this is

[1] Officer Monaghan - Direct  
[2] and what exactly you're showing him.  
[3] **A.** Your Honor, it's about 11:37 a.m. and we're  
[4] kind of showing the corner of 56th and Master  
[5] Street.  
[6] **Q.** And what is the -- what did you record here?  
[7] **A.** Your Honor, right there is the male Delee who  
[8] got in his vehicle. He will return back to us.  
[9] Your Honor, 11:44 is when he comes  
[10] back in the vehicle and this is Darnell Delee, Your  
[11] Honor. This male gave us the address of 5605 West  
[12] Master Street.  
[13] Your Honor, if I can fast forward  
[14] some parts.  
[15] **Q.** And what's Darnell Delee wearing that day?  
[16] **A.** He's got a black puffy hooded jacket with a  
[17] red skull cap on. At this time he gets up, grabs  
[18] the bundle of crack cocaine with packets, there's  
[19] people standing down at the bottom of the steps,  
[20] Your Honor. It's 11:45 a.m., Your Honor, numerous  
[21] males and females come up to the area where he  
[22] makes narcotics transactions.  
[23] **THE COURT:** I realize that's a  
[24] conclusion. I fully appreciate that.  
[25] **MR. MEEHAN:** Thank you, Judge.

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[1] Officer Monaghan - Direct  
[2] **BY MS. ROBINSON:**  
[3] **Q.** Which porch front is he on?  
[4] **A.** This is the porch of 5605 West Master Street.  
[5] This is the address that he gave on the 4th when he  
[6] was arrested.  
[7] **Q.** Now, it's going black, can you explain to His  
[8] Honor what's going on?  
[9] **A.** Your Honor, we're trying to get a better  
[10] picture, trying to zoom in better.  
[11] **Q.** And who is on this screen at what time?  
[12] **A.** Your Honor, this is still Darnell Delee, he's  
[13] talking with two males. He was standing right in  
[14] front of 5607.  
[15] Your Honor, being it was a hand  
[16] held, we were having a hard time trying to keep it  
[17] still.  
[18] **Q.** Now, where is Delee at this time, it's 11:51?  
[19] **A.** Right now he's standing on the corner of 56th  
[20] and Master. He's now walking back to the property,  
[21] Your Honor, and that is 5605.  
[22] Your Honor, that was what I believe  
[23] to be the bundle that he just rolled up and put  
[24] back into his pocket. He's now walking back to  
[25] 56th and Master Street, Your Honor. This would be

[1] Officer Monaghan - Direct  
[2] the northwest corner. At this time, Your Honor, he  
[3] takes out the clear baggie that was in his left  
[4] pocket. He removed small packets, Your Honor.  
[5] After accepting U.S. currency he hands a packet to  
[6] the males, I believe it's two males that came up.  
[7] Your Honor, certain times what he  
[8] did was he would either hand the packets or he  
[9] would lay the packets on the pillar and then he  
[10] would pick up the packets after handing the U.S.  
[11] currency to him.  
[12] **Q.** And what just happened there?  
[13] **A.** Your Honor, put couple of the packets back  
[14] into his bag, put them back into his pocket.  
[15] **Q.** If you can just make the time clear so the  
[16] stenographer has it.  
[17] **A.** It's 11:53 a.m. on January 3rd.  
[18] Your Honor, continuously the whole  
[19] time we were filming he was counting the money,  
[20] just walking back and forth counting the money.  
[21] Now, he's out of our sight as you can tell by the  
[22] doorway, but how we can tell the curtain moved that  
[23] means the doorway went inside the house. Every  
[24] time we saw the curtain moved he was either opening  
[25] up the door or somebody was opening up saying

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[1] Officer Monaghan - Direct

[2] something to him.

[3] **MR. MEEHAN:** Judge --[4] **MR. CAMPBELL:** Objection.[5] **MR. MEEHAN:** I'm going to let a

[6] certain amount of conclusory stuff --

[7] **THE COURT:** I understand that's a

[8] conclusion. I fully appreciate that.

[9] **MR. MEEHAN:** Thank you.[10] **THE WITNESS:** Your Honor, again

[11] Anthony Delee, this man that just walked out of

[12] the house, Your Honor, he went by the name of

[13] McGill Moon.

[14] Your Honor, it's tough to see. When

[15] he bent down, we could tell better from what

[16] the tape was, it was the packets he gave the

[17] guy.

[18] Now he's over in front of 5607 and

[19] that's McGill Moon.

[20] Your Honor, that's a bundle with

[21] green objects that he has in his hands, packets

[22] of crack cocaine that he's counting. He counts

[23] the packets inside the bundle, and this is on

[24] the porch of 5607.

[25] Your Honor, again that's Darnell

[1] Officer Monaghan - Direct

[2] Delee on the porch and also McGill Moon.

[3] **BY MS. ROBINSON:**[4] **Q.** Do you know who the man is in the light blue

[5] jacket?

[6] **A.** No, I don't. That's at 12:00 p.m. Two males

[7] walked up to the porch area. McGill Moon handed

[8] the first guy in the red and white hat, then he

[9] hands the guy in the other hat after accepting U.S.

[10] currency small objects from that clear baggie that

[11] he had.

[12] Your Honor, he just put that clear

[13] baggie into I believe it was his right jacket

[14] pocket, McGill Moon.

[15] Your Honor, that's the defendant who

[16] is in the blue shirt went by the name of Anthony

[17] Hodges.

[18] **Q.** And what time is it, Officer Monaghan?[19] **A.** 12:01 p.m. on January 3rd.[20] **Q.** And where was the defendant when you first saw

[21] him?

[22] **A.** He's standing on the northwest corner of 56th

[23] and Master Street.

[24] **Q.** What's he wearing on that date?[25] **A.** Black kind of a leather jacket Avirex jacket

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[1] Officer Monaghan - Direct

[2] with a black and gray hooded sweat shirt and a

[3] black baseball cap.

[4] Your Honor, Anthony Delee -- I mean

[5] Darnell Delee and McGill Moon both come to the

[6] corner at 12:01 and they converse with the person

[7] in the blue shirt over there, the defendant Anthony

[8] Hodges.

[9] **Q.** Do you know who that is in the yellow jacket?[10] **A.** No, I do not. That was just I believe

[11] somebody waiting for the bus.

[12] **Q.** Your Honor, being their back was turned, I

[13] couldn't tell, I believe they just had a

[14] conversation, but we couldn't tell being their back

[15] was turned.

[16] Your Honor, it's 2:11 p.m., 2:12

[17] p.m., Darnell Delee is standing on the porch of

[18] 5605 West Master Street. Your Honor, the male put

[19] the money down on the concrete. Also that's where

[20] he put the drugs, Your Honor, on different

[21] occasions and they would pick up the packets there,

[22] Your Honor, at 2:12 he's selling to a black female.

[23] **THE COURT:** I realize again that's a

[24] conclusion, the word sell.

[25] **THE WITNESS:** Yes. 2:13, Your Honor,

[1] Officer Monaghan - Direct

[2] possibly another one. Delee walks off the

[3] porch. Your Honor.

[4] Your Honor, being the car was in our

[5] way, you couldn't really tell what he was

[6] doing, so I tried to get the tag number of that

[7] vehicle.

[8] 2:17 possible another narcotics

[9] transaction, Your Honor, with the clear baggie.

[10] That's the clear bundle that he just put back

[11] into his pocket.

[12] Your Honor, if you can see, he's

[13] smoking a blunt in his left hand. 2:19, again

[14] a possible sale with the same clear baggie.

[15] Passes the blunt to the unknown male that was

[16] on the porch.

[17] 2:20, again a possible sale to a

[18] black female.

[19] Again he's counting the money.

[20] **BY MS. ROBINSON:**[21] **Q.** Do you know who that male is on the porch with

[22] him?

[23] **A.** No, we never had him IDed. After he leaves

[24] that's the last I've seen of him.

[25] Possibly sells to that black male,



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[1] Officer Monaghan - Direct  
[2] Your Honor, who came up on the steps of 5607.  
[3] Your Honor, that male that walked  
[4] across, he was taking money out of his pocket.  
[5] What he did, Your Honor, we can't tell, I wasn't  
[6] the one on the camera right now, Your Honor, I was  
[7] looking through the periscope and I could see him  
[8] take the money out, he knocked on the front door.  
[9] Your Honor, that was the defendant  
[10] over there in the blue shirt, he walked out of the  
[11] house, Anthony Hodges. He still had the same  
[12] jacket on, same hat.  
[13] Your Honor, if I can reverse it,  
[14] what happened was when my partner had the scope on  
[15] the person that came up in the red, I was observing  
[16] Anthony Hodges. Anthony Hodges came out at the  
[17] doorway, Your Honor, he accepted U.S. currency from  
[18] that guy in the black. At that time Anthony Hodges  
[19] handed him small objects, that's why the guy left  
[20] off the porch.  
[21] **MR. CAMPBELL:** Objection.  
[22] **THE COURT:** Sustained.  
[23] **THE WITNESS:** McGill Moon comes back  
[24] into the area, Your Honor.  
[25] 2:25, Your Honor, McGill is standing.

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[1] Officer Monaghan - Direct  
[2] **BY MS. ROBINSON:**  
[3] **Q.** Who was the officer?  
[4] **A.** Police Officer Brad Mitchell, Badge Number  
[5] 4145.  
[6] **Q.** So where did he go then?  
[7] **A.** Walks off, he has a conversation with this guy  
[8] that's walking across the street. He leaves the  
[9] area. I asked him what happened, I call him back.  
[10] Now, Your Honor, 3:55 p.m. you have  
[11] Anthony Hodges, Darnell Delee, and a couple other  
[12] of the guys that were never IDed, Your Honor, out  
[13] of the sight of the camera, Your Honor. He was  
[14] approached by these two males and female, possibly  
[15] could have been narcotics transaction, Your Honor.  
[16] At this time my partner had the videotape, I was  
[17] looking through the scope. Your Honor, undercover  
[18] going into the store, the store is on the northeast  
[19] corner of 56th and Master Street. He had a  
[20] conversation with Delee. Delee walks back to the  
[21] back of the store, at which time, Your Honor, from  
[22] what he's doing, he's removing packets from that  
[23] bundle. Calls Officer Mitchell out to the store,  
[24] at which time he receives U.S. currency from  
[25] Officer Mitchell and he hands officer Mitchell at

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[1] Officer Monaghan - Direct  
[2] back there in the doorway. 2:25, two males  
[3] come up, approach him, possibly two narcotics  
[4] transactions. See he handed up to him in the  
[5] bag because a car was coming by, they weren't  
[6] sure.  
[7] McGill comes over and approaches, he  
[8] has a conversation with the person in this  
[9] vehicle.  
[10] At this time, Your Honor, he gets up,  
[11] goes back up to the porch area, he hands the  
[12] clear baggie with the green packets of crack  
[13] cocaine in the baggie, he handed it over to  
[14] Moon and he gets into the vehicle and leave the  
[15] area.  
[16] Now, again, Darnell Delee at 3:08  
[17] possibly conducts a narcotics transaction on  
[18] the step of 5605.  
[19] Your Honor, right now I sent our  
[20] undercover police officer up to purchase  
[21] narcotics from one of the males. At that time,  
[22] Your Honor, both males went inside the house, I  
[23] believe. Lost sight of them. I instructed  
[24] him to wait around until somebody comes out.  
[25]

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[1] Officer Monaghan - Direct  
[2] that time, Your Honor, they were black tinted  
[3] ziplock packs containing off-white chunky  
[4] substance, alleged crack cocaine. This is Delee's  
[5] father, his name is Glen Delee. He resided at 5605  
[6] West Master Street. He's walking up the steps at  
[7] 5605, Your Honor. Again, Your Honor, this is the  
[8] corner of 56th and Master Street. Defendant  
[9] Anthony Hodges, that's the northwest corner of 56th  
[10] and Master. McGill Moon, 5605 Master. Your Honor,  
[11] that's the end of the surveillance for that day.  
[12] **THE COURT:** All right. I just have a  
[13] -- that buy money, was that pre-recorded?  
[14] **THE WITNESS:** Yes, it was, Your  
[15] Honor.  
[16] **MS. ROBINSON:** I'm going to be  
[17] playing another tape.  
[18] **BY MS. ROBINSON:**  
[19] **Q.** Officer Monaghan, do you have C-2 for  
[20] identification purposes, January 4th, 2001?  
[21] **A.** Yes, I do.  
[22] **Q.** Officer Monaghan, while you're setting that  
[23] up, did you have occasion to return to the 5600  
[24] block of Master Street and again set up a  
[25] surveillance of that area at approximately 1:40 in

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[1] Officer Monaghan - Cross

[2] the afternoon?

[3] A. Yes, I did.

[4] Q. Actually what time did you set up the  
[5] surveillance?[6] A. It was about 1:35 we pulled up, about 1:40 by  
[7] the time we got situated.

[8] Q. And what are you showing here on the tape?

[9] A. Your Honor, this is the east side of 56th  
[10] Street. That's Darnell Delee going up to the porch  
[11] area of 5605 West Master Street. Your Honor,  
[12] that's at 12:52. Your Honor, between --

[13] THE COURT: You set up at 1:35?

[14] THE WITNESS: No, Your Honor, they  
[15] were just there on the porch, nothing was going  
[16] on.[17] THE COURT: So you arrived somewhere  
[18] around 12:50?[19] THE WITNESS: I was there earlier in  
[20] the day.[21] THE COURT: Looks like around 12:50  
[22] when you started.

[23] BY MS. ROBINSON:

[24] Q. Now, just so the record is clear, there's no  
[25] audio on this tape; is that correct?

[1] Officer Monaghan - Cross

[2] A. No, there's not.

[3] Q. Were you able to hear anything in your  
[4] surveillance vehicle?[5] A. No, I couldn't hear any conversation that was  
[6] going on on the porch. Your Honor, again it's  
[7] Anthony -- Darnell Delee and McGill Moon is on the  
[8] porch, Your Honor.[9] Now, I couldn't really tell what  
[10] McGill pulled out of his pocket at that time.[11] Now, we were worried about our  
[12] location, where we're parked at on that date. I  
[13] believe they both Delee and McGill, they walked out  
[14] of our sight, walked northbound on 56th Street up  
[15] towards Media out of our sight. At that time, Your  
[16] Honor, there was nobody in front of any of the  
[17] houses on Master Street.[18] Your Honor, this male that was  
[19] outside we were never able to get him IDed.

[20] Q. What time is that?

[21] A. At 12:58 p.m. on January 4th. That was  
[22] Thursday afternoon.[23] Your Honor, that's Darnell Delee  
[24] that came back into the area with the black jacket  
[25] and the red hat on.

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[1] Officer Monaghan - Cross

[2] Darnell Delee, Your Honor, he goes  
[3] back 5605 in that area.[4] Darnell Delee starts walking over  
[5] towards that vehicle.[6] Your Honor, this store that's on the  
[7] corner, it's on the northeast corner 56th and  
[8] Master.[9] Darnell Delee going back to 5600  
[10] block of Master Street.[11] Your Honor, dark green Bonneville  
[12] that went by Darnell Delee gestured to it to pull  
[13] over. He pulled over I guess on the 1400 block of  
[14] than Street, Your Honor. That was Anthony Hodges  
[15] just got out of that, I believe that was a  
[16] Seabring. Your Honor, now I contacted Police  
[17] Officer Walker to pull up, I said it's a dark green  
[18] Bonneville and I couldn't tell who the driver was  
[19] and I asked him to let me know what was going on  
[20] and he followed the dark green Bonneville.[21] Your Honor, at this time I just  
[22] watched the males, I see Darnell Delee come back to  
[23] the area, he goes right to the corner, he goes to  
[24] the house and he goes back to 56th and Master  
[25] Street, Anthony Hodges goes back inside. This is

[1] Officer Monaghan - Cross

[2] Darnell Delee coming out, Your Honor. He was in  
[3] the car for about maybe two to three minutes inside  
[4] that vehicle.

[5] Q. Which vehicle so the record is clear?

[6] A. It was a dark green Bonneville, the tag on  
[7] that vehicle was DKC3310. I later ascertained that  
[8] the driver was a Kareem --[9] MR. MEEHAN: I'm going to objection  
[10] to that.

[11] MS. ROBINSON: It's a motion.

[12] THE WITNESS: -- Torain and that's  
[13] the defendant in the red shirt over there.[14] Again, Your Honor, possibly narcotics  
[15] transaction going on. Your Honor, I'm not sure  
[16] if I just missed it, but he hollers to a male  
[17] across the street standing right by our bumper  
[18] of our car, almost leaning up against our  
[19] vehicle. He hollers he only had a bundle, he's  
[20] going to call me when the rest is done.[21] THE COURT: When you say he  
[22] hollers --[23] THE WITNESS: Darnell Delee hollers  
[24] over to the person standing right by our  
[25] bumper.

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[1] Officer Monaghan - Cross  
[2] **BY MS. ROBINSON:**  
[3] **Q.** Did you ever identify that person?  
[4] **A.** That was Kabian Diggs. I believe that's when  
[5] he's hollering that he only had a bundle, he'll  
[6] call me when the rest is ready.  
[7] Again, Your Honor, Darnell Delee  
[8] involved at 1:47 in possible narcotics transaction,  
[9] just a little bit north of Master Street on 5th on  
[10] the west side of the street.  
[11] Your Honor, 1:49, Darnell Delee  
[12] standing on the step, I'm not sure of that address,  
[13] possible narcotics transaction.  
[14] This will be the first house just  
[15] north of Master Street on 56th on the west side of  
[16] the street.  
[17] Again another possible narcotics  
[18] transaction on 56th Street, 1:53 p.m.  
[19] Your Honor, that's the defendant in  
[20] the blue shirt, Anthony Hodges, same clothes on as  
[21] the day before, the jacket and the sweat shirt and  
[22] the hat.  
[23] **Q.** Now, what's going on there?  
[24] **A.** That's Darnell Delee gets in a vehicle for  
[25] about less than a minute where he exits, we

[1] Officer Monaghan - Redirect  
[2] couldn't tell what was going on inside that  
[3] vehicle.  
[4] Darnell Delee again standing in  
[5] front of 5605 west Master Street.  
[6] Your Honor, that was Anthony Hodges  
[7] back there, Your Honor conducting narcotics  
[8] transaction on the highway 56th and Master Street.  
[9] **THE COURT:** I realize that's a  
[10] conclusion.  
[11] **THE WITNESS:** You see him handing  
[12] small packets, Your Honor, accepting U.S.  
[13] currency.  
[14] **BY MS. ROBINSON:**  
[15] **Q.** And then where is Hodges going?  
[16] **A.** Just up to the porch area, 5607, the address  
[17] that he gave us on the 229 that he lived there.  
[18] **Q.** How does he gain entrance?  
[19] **A.** With a key. He was observed numerous times  
[20] throughout the 3rd, the 2nd, 3rd and 4th using a  
[21] key to get into that property. Anthony Hodges  
[22] walked out of our sight at that time, Your Honor.  
[23] Your Honor, this is when Darnell  
[24] Delee was on a pay phone. He leaves the area.  
[25] There is Anthony Hodges going back up to the

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[1] [2] property 5607 with a key.  
[3] **BY MS. ROBINSON:**  
[4] **Q.** When Delee left the area, did he learn by  
[5] himself or other people?  
[6] **A.** He left with I believe it was three other  
[7] males, Arthur Tilman and Kabian Diggs.  
[8] **Q.** And what's going on at the 5600 block of  
[9] Master Street?

[10] **A.** Right now this is McGill Moon, comes up to the  
[11] property, knocks on the door. Anthony Hodges is  
[12] inside the house at this time. Your Honor, at this  
[13] time I'm having everybody come into the area.

[14] **THE COURT:** Everybody meaning.

[15] **THE WITNESS:** My members of narcotics  
[16] field unit to saturate the area. I was giving  
[17] out the description and locations of everybody.  
[18] Also at this time there was officers doing the  
[19] surveillance up at another property 1628 North  
[20] 55th Street, Your Honor, and Officer Walker was  
[21] also doing surveillance in the area of -- if I  
[22] can refer to my notes, Your Honor.

[23] **THE COURT:** Yes.

[24] **THE WITNESS:** 1628 North 55th it was,  
[25] Your Honor. It's on the corner of 55th and

[1] Officer Walker - Direct  
[2] Hunter  
[3] **THE COURT:** Corner of 55th and what?  
[4] **THE WITNESS:** 55th and Hunter street.  
[5] **BY MS. ROBINSON:**  
[6] **Q.** Now, were you in communication with Officer  
[7] Walker by phone, radio?  
[8] **A.** By radio, yes, I was. Again it's Anthony  
[9] Hodges, Your Honor, the time is skipping back and  
[10] forth, we're not filming the whole time. Your  
[11] Honor, it's into -- I believe that was his -- I  
[12] believe it was a Plymouth Breeze, a red Plymouth  
[13] Breeze had a Delaware tag of D4398.  
[14] Again he enters with a key, Your  
[15] Honor. Your Honor, that black car that came by, I  
[16] believe that black car was the black Buick that  
[17] Darnell Delee did pull up. Darnell Delee exits,  
[18] Kabian Diggs and Arthur Tilman exits that vehicle,  
[19] Your Honor.  
[20] **Q.** How long were they gone for?  
[21] **A.** About 20 minutes, I believe.  
[22] Police Officer Reynolds and Police  
[23] Officer Walker had them on surveillance at that  
[24] time. There was no video, Your Honor.  
[25] McGill on the porch of 5605, that's



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[1] Officer Walker - Direct  
[2] Darnell Delee on the porch of 5605. Puts the U.S.  
[3] currency down, Your Honor, picks up small objects  
[4] that was on the concrete. Again he has a bundle,  
[5] Your Honor, with green objects inside that bundle  
[6] which I believe to be crack cocaine. All the males  
[7] come up on the porch, McGill Moon, Darnell Delee,  
[8] Kabian Diggs is up there, Anthony Hodges goes back  
[9] into 5607. Your Honor, we had a search warrant for  
[10] 5605. I believe that was the 99025. 5607, 99026;  
[11] and 5609, 99027 for them properties.  
[12] Q. And what time was the original takedown  
[13] scheduled for?  
[14] A. Your Honor, we wanted to do it about 2  
[15] o'clock, but being the officers were coming back  
[16] from court, we had to prolong it a little bit  
[17] longer.  
[18] Q. The male in the light blue jacket, have you  
[19] seen him before, how many times?  
[20] A. Your Honor, I saw him once on the 3rd and  
[21] twice on the 4th, same guy that bought -- he had  
[22] the Oilers jacket, Houston Oilers football jacket  
[23] I believe this male right there, he  
[24] gave us a name of Ronald Freeman. Darnell Delee  
[25] Anthony Hodges goes back to the

[1] Officer Walker - Direct  
[2] Plymouth Breeze, he removed something from the back  
[3] of the Plymouth Breeze. I wasn't sure what it was,  
[4] Your Honor. He walks up into 5607.  
[5] MR. CAMPBELL: Your Honor, I'm sorry,  
[6] I just wanted -- I'm going to object to that  
[7] portion of the testimony. I understand that  
[8] the officer is explaining the video, but maybe  
[9] I missed it, I didn't see my client going to  
[10] the Plymouth Breeze in this part of the  
[11] vehicle.  
[12] THE COURT: He is saying that it did  
[13] happen at this time.  
[14] THE WITNESS: Yes, Your Honor, it was  
[15] on there.  
[16] THE COURT: All right. You want to  
[17] show it again so he can see.  
[18] (Tape rewind)  
[19] MR. CAMPBELL: Okay.  
[20] THE COURT: For the record we backed  
[21] it up.  
[22] THE WITNESS: That was about 2:59 I  
[23] believe it was  
[24] Darnell Delee, Your Honor, on the  
[25] steps at 3:02, possible narcotics. I believe

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[1] Officer Walker - Direct  
[2] that was the end of our surveillance at that  
[3] time.  
[4] BY MS. ROBINSON:  
[5] Q. Officer Monaghan, you indicated that you saw  
[6] the Bonneville pass you by and Darnell Delee make a  
[7] gesture and you directed Officer Jeffrey Walker to  
[8] surveil that vehicle; is that correct?  
[9] A. That's correct.  
[10] Q. And you also indicated that you were in  
[11] communication with Officer Walker by radio. What  
[12] did Officer Walker tell you about what he saw over  
[13] radio that lead you to direct him to do anything  
[14] further?  
[15] A. Your Honor, Police Officer Walker, I told him  
[16] that the car is going to be parked in the 1400  
[17] block of Ithan Street. As Police Officer Walker  
[18] went right behind the vehicle he observed the  
[19] defendant Darnell Delee exiting that passenger side  
[20] of the vehicle, at which time he was exiting in his  
[21] hand relayed back to me --  
[22] MR. MEEHAN: I have to object at this  
[23] point. He's not even making these observations  
[24] himself.  
[25] THE COURT: It's hearsay, but it's a

[1] Officer Walker - Cross  
[2] motion.  
[3] MR. MEEHAN: Judge, but he's not even  
[4] making these observations himself, however. I  
[5] mean I certainly understand --  
[6] THE COURT: Well, let me ask you, is  
[7] Officer Walker available?  
[8] MS. ROBINSON: Yes, he is available,  
[9] but it also goes to the fact that Officer  
[10] Monaghan directed the arrest of the defendant  
[11] Kareem Torain.  
[12] THE COURT: I'll permit it. So you  
[13] want to pick it up.  
[14] THE WITNESS: If Your Honor please,  
[15] Officer Walker relayed back to me that Darnell  
[16] Delee was exiting passenger side of that  
[17] vehicle holding clear baggie which Officer  
[18] Walker believed to be bundle of narcotics.  
[19] BY MS. ROBINSON:  
[20] Q. And then what did you --  
[21] MR. MEEHAN: I'm going to object.  
[22] THE COURT: I'm going to overrule the  
[23] objection, but I understand your objection.  
[24] MR. MEEHAN: Thank you.  
[25]

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(1) Officer Walker - Cross  
(2) **BY MS. ROBINSON:**  
(3) **Q.** And then what did you direct Officer Walker to  
(4) do?  
(5) **A.** To follow the green Bonneville.  
(6) **Q.** And did he do so?  
(7) **A.** Yes, he did.  
(8) **Q.** And where did the green Bonneville go to?  
(9) **A.** I believe it went to the area of, I believe it  
(10) was Conestoga Street.  
(11) **Q.** And based on your communication with Officer  
(12) Walker did it stay there or did it proceed to  
(13) another location?  
(14) **A.** It stayed there for a while and then the  
(15) operator of that vehicle went to 1628 North 55th  
(16) Street.  
(17) **Q.** And based on your observation -- your  
(18) communication with Officer Walker what further  
(19) information did you learn?  
(20) **A.** At that time a short time later I informed  
(21) Police Officer Walker that a dark colored Buick was  
(22) coming his way with three males and he observed the  
(23) Buick pull up to in front of 1628 North 55th  
(24) Street.  
(25) **Q.** When you say you told him a Buick was coming

(1) Officer Reynolds - Direct  
(2) his way, what was -- was that just an educated  
(3) guess?  
(4) **A.** Yes, it was. Yes, it was.  
(5) **Q.** And who was in -- what did you believe to be  
(6) in that Buick?  
(7) **A.** Darnell Delee was driving that vehicle, Arthur  
(8) Tilman and Kabian Diggs.  
(9) **Q.** And based on your conversation with Officer  
(10) Walker, did that come to be?  
(11) **A.** Yes, it did.  
(12) **Q.** And what further information did you learn  
(13) from Officer Walker?  
(14) **A.** That all three males exit that vehicle and  
(15) went into 1628 North 55th Street.  
(16) **Q.** And then based on that did you have occasion  
(17) to direct that the defendant Kareem Torain should  
(18) be arrested?  
(19) **A.** Yes, I did.  
(20) **Q.** And at what point in the activities that  
(21) afternoon did you direct that?  
(22) **A.** About 2:58 p.m. I notified Police Officer  
(23) Reynolds and Police Officer Walker to stop the  
(24) vehicle if they see it when it leaves the property  
(25) and they stopped it in the 6100 block of Nassau

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(1) Officer Reynolds - Cross  
(2) street, N A S S A U, Street.  
(3) **Q.** Now, why did you direct that the defendant  
(4) Kareem Torain should be arrested?  
(5) **A.** Based on the information I received back from  
(6) Police Officer Walker.  
(7) **Q.** And specifically what was the information that  
(8) you received that led you to believe that the  
(9) defendant had engaged in criminal activity?  
(10) **A.** When the male Delee -- Darnell Delee exited  
(11) that vehicle with the clear baggie in his hand and  
(12) also Police Officer Walker notified me that the  
(13) three males left the area Delee placed a clear  
(14) baggie inside his jacket pocket when they left 1628  
(15) North 55th Street.  
(16) **Q.** Now, how many people were in that Bonneville?  
(17) **A.** Three people.  
(18) **Q.** Who was driving the Bonneville?  
(19) **A.** Darnell Delee.  
(20) **Q.** No; the Bonneville.  
(21) **A.** Oh, the Bonneville he relayed back to me just  
(22) one male. That was Kareem Torain.  
(23) **MR. MEEHAN:** Judge, again for the  
(24) record I'll object.  
(25) **THE COURT:** Overrule your objection.

(1) Officer Reynolds - Cross  
(2) **BY MS. ROBINSON:**  
(3) **Q.** Now, was anything recovered from the defendant  
(4) pursuant to his being arrested?  
(5) **THE COURT:** Which defendant?  
(6) **MS. ROBINSON:** Kareem Torain, I'm  
(7) sorry.  
(8) **THE WITNESS:** Your Honor, if I can  
(9) refer to my notes in here.  
(10) **THE COURT:** All right.  
(11) **THE WITNESS:** He was stopped 6100  
(12) block of Nassau, one pager, one Nextel cell  
(13) phone, one cancer key ring containing five  
(14) keys, one black key ring containing three keys.  
(15) One of them keys, Your Honor, opened the front  
(16) door of 1628 North 55th Street. The another  
(17) key opened up the middle room on the first  
(18) floor of 1628 North 55th Street.  
(19) **BY MS. ROBINSON:**  
(20) **Q.** And had you received any information from  
(21) Officer Walker about the middle room of 1628 North  
(22) 55th Street?  
(23) **A.** Yes, I did. Your Honor, Police Officer Walker  
(24) said he observed the defendant go towards the door  
(25) and open that door with a key and as he went around



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[1]  
[2] he saw the light come on in that middle room. Your  
[3] Honor, there was also U.S. currency that was  
[4] recovered from Kareem Torain, it was \$250 U.S.  
[5] currency.  
[6] **Q.** Did you learn where the defendant Kareem  
[7] Torain said he resided?  
[8] **A.** I later found out he resided 1621 North  
[9] Conestoga Street.  
[10] **Q.** Now, after the end of your surveillance did  
[11] you have occasion to direct that the defendant  
[12] Anthony Hodges be arrested?  
[13] **A.** Yes, I did.  
[14] **Q.** Would you tell His Honor what happened, how  
[15] the takedown occurred?  
[16] **A.** Your Honor, about 3:17 I believe it was, a  
[17] marked vehicle came to the intersection of 56th and  
[18] Master Street with his lights on and a siren, made  
[19] a U-turn in the middle 69th Street, went northbound  
[20] on 56th Street. At that time, Your Honor, three  
[21] males, Maurice Gray, Howard and Kabian Diggs, they  
[22] got into a Bonneville, another Bonneville, Your  
[23] Honor, and they left the area at a high rate of  
[24] speed. Hodges got into the Plymouth Breeze with a  
[25] black female. They left the area southbound on

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[1]  
[2] 56th. I notified Police Officer Reynolds of that  
[3] vehicle and which way he was traveling where Police  
[4] Officer Reynolds stopped that Plymouth Breeze at  
[5] 56th and Market Street and placed the defendant --  
[6] **MR. CAMPBELL:** Just for the record,  
[7] Your Honor, an objection unless it was in his  
[8] presence.  
[9] **THE COURT:** All right. Wait, excuse  
[10] me, I'm going to rule on the objection. The  
[11] objection is overruled.  
[12] Go ahead.  
[13] **BY MS. ROBINSON:**  
[14] **Q.** Who was the driver?  
[15] **A.** I believe the female was the driver.  
[16] **THE COURT:** You believe who?  
[17] **THE WITNESS:** The female, a black  
[18] female.  
[19] **BY MS. ROBINSON:**  
[20] **Q.** And where was it stopped?  
[21] **A.** It was stopped at 56th and Market Street, and  
[22] recovered from Anthony Hodges was five blue tinted  
[23] ziplock packets containing a green weed and seed  
[24] substance, alleged marijuana; one key with three  
[25] keys on that key ring, Your Honor. Later we

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[1]  
[2] determined that it worked the front door of 5607  
[3] West Master Street.  
[4] **Q.** Now, and what was done with those keys, just  
[5] that the record is clear, what was the property  
[6] receipt for that?  
[7] **A.** The property receipt for the --  
[8] **Q.** Keys from Hodges.  
[9] **A.** The keys for the 5607 West Master, 2308222.  
[10] **Q.** And with respect to the keys from Kareem  
[11] Torain, what was the number for that, do you have  
[12] that?  
[13] **A.** Yes, 2308207.  
[14] **Q.** Now --  
[15] **MS. ROBINSON:** Your Honor, based on  
[16] the fact that counsel's represented to me  
[17] they're not challenging the drugs and the  
[18] narcotics recovered from the three locations,  
[19] I'm not going to go into all those details at  
[20] this time.  
[21] **THE COURT:** Very good.  
[22] **MS. ROBINSON:** So at this point the  
[23] Commonwealth has no more questions of this  
[24] witness.  
[25] **THE COURT:** All right.

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[1]  
[2] **MS. ROBINSON:** But I reserve the  
[3] right to recall him in case something changes.  
[4] **THE COURT:** I understand.  
[5] Cross-examine.  
[6] **MR. MEEHAN:** Thank you.  
[7] **CROSS-EXAMINATION**  
[8] **BY MR. MEEHAN:**  
[9] **Q.** Officer, just a few questions for you.  
[10] **A.** Sure.  
[11] **Q.** First off, good afternoon.  
[12] **A.** Good afternoon.  
[13] **Q.** You testified that you were not able to  
[14] determine who the driver of the green Bonneville  
[15] was; correct?  
[16] **A.** That's correct.  
[17] **Q.** And it also is correct that whoever that  
[18] driver of the green Bonneville was, you did not see  
[19] that person make any exchanges with Mr. Delee;  
[20] correct?  
[21] **A.** No, I did not.  
[22] **Q.** Okay. You were watching, though; correct?  
[23] **A.** Once he pulled onto Ithan Street it was out of  
[24] my view.  
[25] **Q.** Pardon me?

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[1]  
[2] A. Once the vehicle pulled onto Ithan Street and  
[3] the defendant Delee got into the vehicle, it was  
[4] out of my view.  
[5] Q. Now, correct me if I'm wrong, but over the  
[6] couple days of taping, Mr. Delee had gotten into a  
[7] couple different vehicles; correct?  
[8] A. Yes.  
[9] Q. Okay. Did you tell officers to follow any of  
[10] the other vehicles?  
[11] A. No, I did not.  
[12] Q. Okay. And the green Bonneville again as you  
[13] said already, you have not seen him give any money  
[14] or receive any drugs from Mr. Delee; correct?  
[15] A. That's correct.  
[16] Q. The only time that you saw the green  
[17] Bonneville during your surveillance was that brief  
[18] period of time; correct?  
[19] A. That's correct.  
[20] Q. Okay. You saw the green Bonneville leave the  
[21] area; correct?  
[22] A. No, I didn't see it leave the area.  
[23] Q. Okay. You didn't even see it leave the area?  
[24] A. No, I didn't.  
[25] Q. You just saw Mr. Delee exit the vehicle or

[1]  
[2] A. No, Police Officer Walker observed that. It  
[3] was out of my view.  
[4] Q. Out of your sight?  
[5] A. Out of my sight.  
[6] Q. And that was I believe about 1:40, 1:45; is  
[7] that about right?  
[8] A. About 1:42, in around 1:45.  
[9] Q. Okay. Now, prior to that time it's your  
[10] position that Mr. Delee had been making any number  
[11] of transactions, not only on the 3rd, but also the  
[12] 4th; correct?  
[13] A. That's correct.  
[14] Q. And following that brief time inside the green  
[15] Bonneville, Mr. Delee again your belief is that he  
[16] was making any number of transactions also;  
[17] correct?  
[18] A. Inside the Bonneville?  
[19] Q. No, out on the street.  
[20] A. Out on the street?  
[21] Q. Yes.  
[22] A. Earlier he was and then he stopped for a  
[23] period of time before he got in that car.  
[24] Q. He actually left that area; correct?  
[25] A. Yes, he did.

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[1]  
[2] Q. With some other males?  
[3] A. I think he walked off.  
[4] Q. Do you know the time where he actually got  
[5] into the black vehicle and left the area?  
[6] A. I think he did for a few minutes and came  
[7] back.  
[8] Q. And then he came back and then he made some  
[9] more what you believed to be transactions also;  
[10] correct?  
[11] A. That's correct.  
[12] Q. Okay. All during the 2nd, the 3rd, and the  
[13] 4th, you never saw my client out at that location?  
[14] A. No, I did not.  
[15] Q. Okay. And you radioed Officer Walker to  
[16] follow the green Bonneville; is that right?  
[17] A. That's correct.  
[18] Q. He's here to testify; correct?  
[19] A. Yes, he is.  
[20] Q. Now, he tells you over radio that it goes to  
[21] 1621 North Conestoga; correct?  
[22] A. I believe he did, yes.  
[23] Q. It stays there, I would imagine you're still  
[24] making surveillance of the 5600 block of Master  
[25] Street and you're also probably getting information

[1]  
[2] from Officer Walker, maybe other officers also;  
[3] correct?  
[4] A. Yes, I am.  
[5] Q. All right. Now, when Officer Walker radios  
[6] back to you, does he have an identification of the  
[7] person who's driving the green Bonneville?  
[8] A. He doesn't have identification, no.  
[9] Q. Okay. And he watches the person go into 1621,  
[10] he tells you that; correct?  
[11] A. Correct.  
[12] Q. The person stays there any a period of time  
[13] and then leaves the location; correct?  
[14] A. That's correct.  
[15] Q. All right. At this point again Officer Walker  
[16] from what he's telling you, he hasn't seen the  
[17] person who was in the green Bonneville selling  
[18] drugs or getting drugs or carrying any drugs at  
[19] this point, has he?  
[20] A. No, he has not.  
[21] Q. Okay. We get to the person then goes in the  
[22] green Bonneville, then goes to 1628 is it South  
[23] 55th or North 55th Street?  
[24] A. It's North 55th.  
[25] Q. North 55th, okay. The person then goes into

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[1]  
[2] that location; correct?  
[3] A. That's correct.  
[4] Q. All right. Now, Officer Walker sees the  
[5] person enter the location; correct?  
[6] A. That's correct.  
[7] Q. Okay. Is watching them from his car; is that  
[8] correct?  
[9] A. I'm not sure where he's watching them from.  
[10] Q. Sees a person enter and then sees a light come  
[11] on in a middle room at that location; is that  
[12] right?  
[13] A. I believe so, yes, that's what he related back  
[14] to me.  
[15] Q. I take it to mean that, and correct me if I'm  
[16] wrong, but he didn't see the person enter a  
[17] particular room, but he believed the person went  
[18] onto that room that had the light go on?  
[19] A. I believe so. I'm not sure what room he  
[20] believes they went into at that time.  
[21] Q. Okay. Now, the green Bonneville then leaves  
[22] the location and leaves the area of 1628 South  
[23] North 55th at approximately 2:55; is that right?  
[24] A. After the green Bonneville leave -- left the  
[25] area, it was about 2:55, 2:58 after the three males

[1]  
[2] left inside the dark color Buick.  
[3] Q. Okay. Now, Officer Walker from what he tells  
[4] you has not seen those three people who show up in  
[5] the Buick who you testified as being Mr. Delee;  
[6] right?  
[7] A. Yes.  
[8] Q. He didn't see him have any contact with  
[9] anybody inside that location, did he?  
[10] A. I saw him walk into the property, but other  
[11] than that I'm not sure.  
[12] Q. Okay. A person gets back in the green  
[13] Bonneville, leaves the location; right?  
[14] A. Yes.  
[15] Q. Officer Walker is on the move again; correct?  
[16] A. Yes, he is.  
[17] Q. Okay. You tell Officer Walker to stop the  
[18] person who is driving the green Bonneville; right?  
[19] A. That's correct.  
[20] Q. At this point again you've not seen that  
[21] person in the green Bonneville have any drugs or  
[22] receive any drugs or give any drugs or even receive  
[23] or give any money at this point; correct?  
[24] A. I did not, no.  
[25] Q. And from what Officer Walker has told you at

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[1]  
[2] this point, he hasn't seen that person receive any  
[3] drugs either; correct?  
[4] A. To the best of my knowledge, no, not at the  
[5] time.  
[6] Q. Well, it's fair to say he would have said  
[7] something to you if he would have seen that?  
[8] A. Yes, he would have.  
[9] Q. Okay.  
[10] MR. MEEHAN: I have no other  
[11] questions.  
[12] THE COURT: Thank you.  
[13] Mr. Campbell.  
[14] MR. CAMPBELL: Thank you, Your Honor.  
[15] BY MR. CAMPBELL:  
[16] Q. Good afternoon, officer.  
[17] A. Good afternoon.  
[18] Q. Okay. The surveillance conducted on January  
[19] 2nd, January 3rd, and January 4th, am I correct  
[20] that on January 2nd there was no video recordings  
[21] of what you surveilled?  
[22] A. That's correct.  
[23] Q. All right. And on January 2nd your testimony  
[24] is that you observed this defendant Anthony Hodges  
[25] along with defendant Delee exchanging U.S. currency

[1]  
[2] for objects with various people; correct?  
[3] A. That's correct.  
[4] Q. All right. And you've also testified that  
[5] this was about ten times or so?  
[6] A. Around there.  
[7] Q. Around there?  
[8] A. Yes. I'm not sure how many times each  
[9] person --  
[10] Q. Okay. And am I correct that you couldn't hear  
[11] any conversation between my client and any other  
[12] person from your location?  
[13] A. No, our windows weren't open, we couldn't hear  
[14] at that time either.  
[15] Q. On either of the three days; right?  
[16] A. All three days, no, that's correct.  
[17] Q. Am I also correct that for all of the  
[18] encounters that you observed that for none of them  
[19] was anyone stopped?  
[20] A. That's correct.  
[21] Q. All right. In fact, no one, there were no  
[22] alleged buyers stopped for day two or day three,  
[23] either, January 3rd and January 4th?  
[24] A. That's correct.  
[25] Q. And am I also correct that what you saw at the

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[1]  
[2] time exchanged were objects for what appeared to be  
[3] U.S. currency; is that correct?  
[4] **A.** Small objects, yes.  
[5] **Q.** And I'm also correct that the video recordings  
[6] that you just described to the Court also don't  
[7] show anything more than objects exchanged for what  
[8] appears to be U.S. currency?  
[9] **A.** Some of the video shows green objects in a  
[10] baggie and everything, but --  
[11] **Q.** Okay. Fair enough. That would be the video  
[12] of January --  
[13] **A.** 3rd, I believe it was.  
[14] **Q.** -- 3rd, green objects, but always objects;  
[15] right?  
[16] **A.** That's correct.  
[17] **Q.** Just to be sure, the video don't show  
[18] denominations on any of the bills or anything like  
[19] that; right?  
[20] **A.** No, it does not.  
[21] **Q.** All right. And when my client was arrested,  
[22] no drugs at all were recovered from him; correct?  
[23] I'm sorry, let me strike that. That's incorrect.  
[24] Five blue packets of marijuana; is  
[25] that correct.

[1]  
[2] **A.** That's correct.  
[3] **Q.** All right. And one set of keys that you later  
[4] determined were for the front door of 5607 West  
[5] Master Street; right?  
[6] **A.** Yes.  
[7] **Q.** All right. You recovered no pre-recorded buy  
[8] money from my client; is that right?  
[9] **A.** That's correct.  
[10] **Q.** And you later came to know that my client  
[11] resided at 5607 West Master Street; is that right?  
[12] **A.** That's correct.  
[13] **Q.** And with regard to the Plymouth, the red  
[14] Plymouth Breeze that my client went into the trunk  
[15] on two occasions, no drugs were recovered from that  
[16] vehicle; is that right?  
[17] **A.** That's correct.  
[18] **Q.** Am I also correct that on January 3rd Anthony  
[19] Hodges has an encounter with one person you  
[20] described as a narcotics transaction?  
[21] **A.** That's correct.  
[22] **Q.** And that there is also one such transaction on  
[23] January 4th?  
[24] **A.** I believe there was maybe two, two that was on  
[25] film on 56th Street and then I observed one in my

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[1]  
[2] view that wasn't on camera, that was right at the  
[3] steps of 5607.  
[4] **Q.** Right. I got the one at the steps. The one,  
[5] the other one that you're referring to, is that  
[6] when he appears on the corner of the 5600 block?  
[7] **A.** Yes.  
[8] **Q.** Was there an actual exchange or did he just  
[9] exchange words with someone?  
[10] **A.** No, there was actual exchange.  
[11] **MR. CAMPBELL:** Thank you, officer.  
[12] That's all I have.  
[13] **THE COURT:** Any redirect?  
[14] **MS. ROBINSON:** Just very briefly.  
[15] **REDIRECT EXAMINATION**  
[16] **BY MS. ROBINSON:**  
[17] **Q.** Mr. Meehan brought up that you didn't have an  
[18] identification of the defendant Kareem Torain. Did  
[19] you have a description, however?  
[20] **A.** Myself?  
[21] **Q.** Yes.  
[22] **A.** No, I did not.  
[23] **Q.** Did Officer Walker provide one to you?  
[24] **A.** Yes, he did.  
[25] **Q.** And was that before you had actually ordered

[1]  
[2] the arrest of the driver of the Bonneville?  
[3] **A.** Yes, it was.  
[4] **Q.** And what was the description he was able to  
[5] provide to you?  
[6] **A.** Tall male, light skinned.  
[7] **Q.** And when you ordered the takedown, Mr. Meehan  
[8] said that at that point you didn't actually have  
[9] knowledge that the defendant had delivered any  
[10] narcotics. What was your belief based on under all  
[11] the circumstances of what you had seen about what  
[12] had occurred that afternoon as to what conduct the  
[13] defendant Kareem Torain engaged in?  
[14] **MR. MEEHAN:** I'm going to object just  
[15] for the record.  
[16] **THE COURT:** Overruled. Took a lot of  
[17] thought to get that question out. I got to  
[18] congratulate her.  
[19] **MS. ROBINSON:** Thank you.  
[20] **THE COURT:** Grammatically correct,  
[21] that's the amazing thing.  
[22] **THE WITNESS:** Based on my experience  
[23] as a narcotics officer and a police officer, I  
[24] believe inside that vehicle there was narcotics  
[25] passed to the defendant Darnell Delee as he



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[1]  
[2] exited. If he was just selling packets he  
[3] would have put it right in his pocket before he  
[4] walked out of the vehicle.  
[5] **BY MS. ROBINSON:**  
[6] **Q.** And Mr. Campbell asked you about buy money.  
[7] No buy money was recovered from the defendant  
[8] Hodges. Was the buy money that Officer Brad  
[9] Mitchell used on January 3rd recovered, do you  
[10] remember or do you need to --  
[11] **A.** I don't believe so. I'm not really positive.  
[12] **Q.** And the --  
[13] **MS. ROBINSON:** At this time, Your  
[14] Honor, again having been advised that counsel  
[15] is not moving to suppress the narcotics that  
[16] were recovered from each of those locations,  
[17] the Commonwealth will now call its next  
[18] witness.  
[19] **THE COURT:** Well, there may be some  
[20] recross. We still have rules of procedure.  
[21] Recross.  
[22] **RECROSS-EXAMINATION**  
[23] **BY MR. MEEHAN:**  
[24] **Q.** Officer, how late in the process was it that  
[25] Officer Walker gave you this description?

[1]  
[2] **A.** I believe it was when Torain exited that  
[3] vehicle and walked into his house on Conestoga  
[4] Street.  
[5] **Q.** Okay. And --  
[6] **MR. MEEHAN:** Actually I have no other  
[7] questions.  
[8] **THE COURT:** Thank you.  
[9] Anything else?  
[10] **MR. CAMPBELL:** I have nothing  
[11] further.  
[12] **THE COURT:** Okay. Officer, thank  
[13] you.  
[14] **MS. ROBINSON:** The Commonwealth calls  
[15] Officer Jeffrey Walker.  
[16] **THE COURT:** Very well.  
[17] ...OFFICER JEFFREY WALKER, Badge  
[18] Number 3730, Narcotics Field Unit, sworn...  
[19] **THE COURT:** You may proceed.  
[20] **MS. ROBINSON:** Thank you.  
[21] **DIRECT EXAMINATION**  
[22] **BY MS. ROBINSON:**  
[23] **Q.** Officer Walker, how long have you been a  
[24] Philadelphia police officer?  
[25] **A.** Thirteen years.

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[1]  
[2] **Q.** And how long have you been assigned to  
[3] narcotics?  
[4] **A.** Two and a half years.  
[5] **Q.** Directing your attention to January 4th, 2001,  
[6] did you have occasion to be working in a backup  
[7] surveillance capacity to Officer Monaghan as he had  
[8] set up a surveillance in the area of 56th and  
[9] Master Streets?  
[10] **A.** That's correct.  
[11] **Q.** And in that afternoon did you have occasion to  
[12] observe anyone whom you see here today in court?  
[13] **A.** That's correct.  
[14] **Q.** Would you point to that individual.  
[15] **A.** Defendant with the red shirt.  
[16] **MS. ROBINSON:** May the record reflect  
[17] that the witness has identified the defendant  
[18] Kareem Torain setting to the left of his  
[19] counsel.  
[20] **THE COURT:** Very well.  
[21] **BY MS. ROBINSON:**  
[22] **Q.** Officer Walker, what time did you first  
[23] observe the defendant and where was he?  
[24] **A.** When I first observed defendant, he was on  
[25] Conestoga Street. He was coming out of a vehicle.

[1]  
[2] **Q.** And what kind of vehicle was it?  
[3] **A.** A green Pontiac with a PA tag of DKC3310.  
[4] **Q.** And where had you first seen that Bonneville?  
[5] **THE COURT:** He said Pontiac, did you  
[6] not?  
[7] **THE WITNESS:** I said Bonneville.  
[8] **THE COURT:** Oh.  
[9] **THE WITNESS:** Green Bonneville.  
[10] **THE COURT:** I thought you said  
[11] Pontiac. I realize Pontiac and Bonneville is a  
[12] model, but, okay, all right.  
[13] **BY MS. ROBINSON:**  
[14] **Q.** And, Officer Walker, where had you first seen  
[15] that Bonneville during the course of your  
[16] surveillance?  
[17] **A.** At Ithan and Master.  
[18] **Q.** And where is Ithan, what kind of street is  
[19] that in relationship to the corner of 56th and  
[20] Master?  
[21] **A.** It's a small street just west of 56th Street.  
[22] **Q.** And when you saw it where were you watching  
[23] from?  
[24] **A.** My vehicle. I was pulling behind the vehicle.  
[25] As a result of information from Police Officer



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[1]  
[2] Monaghan to take the area, I was turning onto Ithan  
[3] Street to Master Street and I observed the vehicle  
[4] parked.  
[5] Q. And it was parked?  
[6] A. Yes.  
[7] Q. Which side of the street?  
[8] A. East side of Ithan.  
[9] Q. And when you saw the car parked, did you see  
[10] any other individual at or near the car?  
[11] A. I observed another individual later identified  
[12] as Darnell Delee exit the passenger side of that  
[13] vehicle.  
[14] Q. And what, if anything, did you see in Darnell  
[15] Delee's possession at the time he exited?  
[16] A. A clear plastic bag the size of a golf ball.  
[17] Q. And what, if anything, did it appear to  
[18] contain?  
[19] A. I couldn't tell at that particular time.  
[20] Q. And based upon your experience as a  
[21] Philadelphia narcotics officer what did you believe  
[22] it to contain?  
[23] A. Narcotics.  
[24] Q. And at that time could you tell how many  
[25] occupants there were in the Bonneville?

[1]  
[2] A. No.  
[3] Q. And then what happened to Delee, where did he  
[4] go to?  
[5] A. He walked, that would be south down Ithan  
[6] passing me and I lost sight of him once he got onto  
[7] Master Street.  
[8] Q. Were you in communication with Officer  
[9] Monaghan?  
[10] A. Yes.  
[11] Q. Did you relate that to him that you saw this  
[12] individual later identified as Darnell Delee with  
[13] the baggie that you believed to contain narcotics?  
[14] A. That's correct.  
[15] Q. And based on the way he came out of the car  
[16] what, if anything, did you conclude about how he  
[17] came to be in possession of it based on your  
[18] experience?  
[19] MR. MEEHAN: I'm going to object.  
[20] THE COURT: I'm going to sustain that  
[21] objection.  
[22] BY MS. ROBINSON:  
[23] Q. Well, what did you see Delee do with that  
[24] baggie? Where did he put it, if anywhere, on his  
[25] person?

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[1]  
[2] A. At that time he had it in his hand, he was  
[3] quickly walking around the corner.  
[4] Q. And how much later did the Bonneville take  
[5] off?  
[6] A. Less than a minute. Maybe 10 seconds.  
[7] Q. And what did you do?  
[8] A. I continued following the vehicle.  
[9] Q. And where did it go to?  
[10] A. 1621 North Conestoga.  
[11] Q. And at that time did the car park, stop, what  
[12] happened?  
[13] A. Parked. He entered the property with a key.  
[14] Q. And was anyone else in the vehicle at that  
[15] time?  
[16] A. No.  
[17] Q. And how far away were you when you saw the  
[18] defendant go into 1621 Conestoga?  
[19] A. About 30 feet. I was parked along Hunter  
[20] Street.  
[21] Q. And how long was the defendant inside that  
[22] location?  
[23] A. From 1:41 to maybe 2 o'clock, so 20 minutes.  
[24] Q. And then what happened?  
[25] A. He left the location, I followed him to 1628

[1]  
[2] North 55th Street.  
[3] Q. And how far away is that from the address of  
[4] 5605, 5607 Master Street?  
[5] A. That street would be just west of it, it's  
[6] like a park, I believe it's a park there,  
[7] something, recreation area there, about a block  
[8] away from it.  
[9] Q. And then where did the defendant park his car?  
[10] A. He parked it in front of the location.  
[11] Q. And then what did you do? Did you see where  
[12] he went?  
[13] A. At that time when he parked I was still in my  
[14] vehicle. I was still parked along Hunter Street.  
[15] He exit the vehicle and entered the property with a  
[16] key. I immediately exited my vehicle, began a foot  
[17] surveillance of the property. I knew because the  
[18] way the property was shaped it had to be apartment.  
[19] I walked alongside of the property, I observed a  
[20] light go on I believe to be the middle room, I  
[21] found to be the middle apartment on the first  
[22] floor. Once I found out the light came on, then I  
[23] went back into my vehicle.  
[24] Q. And how long did you wait there until you saw  
[25] anyone else arrive?

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[1]  
[2] **A.** I stayed there the whole time until another  
[3] vehicle pulled up.  
[4] **Q.** And had you received any further information  
[5] from Officer Monaghan with respect to another  
[6] vehicle might show up?  
[7] **A.** No. I relayed information of description of  
[8] the individual getting out of the Bonneville back  
[9] to him. From there, you know, I stayed at the  
[10] location on 1620 North 55th Street.  
[11] **Q.** And then what happened, did you see anyone  
[12] arrive?  
[13] **A.** Yes, a dark color Buick.  
[14] **Q.** And who got out of that?  
[15] **A.** A defendant by the last name of Delee, Diggs,  
[16] and Tilman.  
[17] **Q.** And where did they go?  
[18] **A.** Into the property.  
[19] **Q.** And could you tell which room they went into?  
[20] **A.** No, at that time. I was still sitting in my  
[21] car.  
[22] **Q.** And then what was the next thing you heard or  
[23] saw?  
[24] **A.** After 20 minutes later the two -- the  
[25] individuals left the location. I observed Delee

[1]  
[2] again carrying a clear plastic baggie the size of a  
[3] golf ball. He was coming out of the property. He  
[4] placed this item into his jacket and they got back  
[5] into the Buick and left the location.  
[6] **Q.** And based upon your seeing him the second time  
[7] with a golf ball size bag what did you believe had  
[8] occurred?  
[9] **A.** Narcotics.  
[10] **Q.** And when you say narcotics what did you  
[11] believe had occurred?  
[12] **A.** He was in possession of narcotics.  
[13] **Q.** And what did you believe about where he had  
[14] gotten this narcotics from?  
[15] **A.** From that location.  
[16] **Q.** And did you relay that information to Officer  
[17] Monaghan?  
[18] **A.** That's correct.  
[19] **Q.** And where did Delee and the other two males  
[20] go? Did they get back in the Buick?  
[21] **A.** All three males got back into the Buick.  
[22] **Q.** And where did they proceed to go, though?  
[23] **A.** They left the location.  
[24] **Q.** And then did you stay where you were?  
[25] **A.** Yes.

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[1]  
[2] **Q.** What happened next?  
[3] **A.** Approximately 2:58 p.m. I observed this  
[4] defendant exit the property.  
[5] **THE COURT:** This defendant meaning.  
[6] **THE WITNESS:** Kareem.  
[7] **MS. ROBINSON:** Kareem Torain.  
[8] **THE COURT:** Thank you.  
[9] **BY MS. ROBINSON:**  
[10] **Q.** And where did he go?  
[11] **A.** I stayed at the location. I relayed  
[12] information to Police Officer Reynolds, told him he  
[13] was leaving that property  
[14] **Q.** And did you identify the defendant later on  
[15] that afternoon as the individual you had seen going  
[16] into that property?  
[17] **A.** That's correct.  
[18] **Q.** Did you have --  
[19] **MS. ROBINSON:** I have no more  
[20] questions.  
[21] **THE COURT:** Cross.  
[22] **MR. MEEHAN:** Thank you, Judge.  
[23] **CROSS-EXAMINATION**  
[24] **BY MR. MEEHAN:**  
[25] **Q.** First off, you never saw Mr. Torain actually

[1]  
[2] go into the middle room of that first floor, did  
[3] you?  
[4] **A.** No. I saw the light come on.  
[5] **Q.** Well, it was about 3 o'clock, 2:30, 3 o'clock  
[6] when that happened; right?  
[7] **A.** That's correct.  
[8] **Q.** Okay. And there were a number of apartments  
[9] in the building; correct?  
[10] **A.** That's correct.  
[11] **Q.** Okay. And at that location you never saw Mr.  
[12] Delee or the other gentleman have any contact with  
[13] my client, did you?  
[14] **A.** No.  
[15] **Q.** You never saw them enter that middle room that  
[16] you believe my client had gone into; correct?  
[17] **A.** That's correct.  
[18] **Q.** When you were out at the location when you  
[19] were making observations of the green Bonneville,  
[20] you didn't see Mr. Torain exchange any money or  
[21] receive any drugs or money from Mr. Delee, did you?  
[22] **A.** No, I didn't see it.  
[23] **Q.** Okay. You saw Mr. Delee leave the car with  
[24] a -- holding a plastic bag; correct?  
[25] **A.** That's correct.

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[1]  
[2] Q. With something approximately the size of a  
[3] golf ball shape in it; correct?  
[4] A. That's correct.  
[5] Q. And you were unable to identify what, if  
[6] anything, that item was; correct?  
[7] A. That's correct.  
[8] Q. Okay. And then shortly thereafter you left  
[9] that location because Officer Monaghan instructed  
[10] you or asked you to follow the green Bonneville?  
[11] A. That's correct.  
[12] MR. MEEHAN: Okay. If I could just  
[13] have one moment.  
[14] THE COURT: No problem.  
[15] BY MR. MEEHAN:  
[16] Q. Now, when Mr. Torain leaves the location on  
[17] 55th Street, you start following him again;  
[18] correct?  
[19] A. Who leaves the location?  
[20] Q. Leaves the location on 55th Street. Wasn't it  
[21] on 55th Street?  
[22] A. No.  
[23] Q. Okay. You initially started at Conestoga  
[24] right?  
[25] A. Following your client?

[1]  
[2] Q. Right.  
[3] A. From Ithan and Master.  
[4] Q. Okay. And where did he go?  
[5] A. He went to Conestoga.  
[6] Q. Did he stay at Conestoga?  
[7] A. He stayed there for a few minutes, about maybe  
[8] 20 minutes.  
[9] Q. And then he left that location?  
[10] A. Left the location and went up to 1628 North  
[11] 55th street.  
[12] Q. That's what I'm talking about, my apologies.  
[13] Then when he left the North 55th Street location  
[14] you then followed him; correct?  
[15] A. No, I stayed there.  
[16] Q. You stayed there?  
[17] A. Yes.  
[18] Q. Okay. Were you present when my client was  
[19] stopped and arrested?  
[20] A. No, I don't think so, no.  
[21] Q. So you weren't the individual who stopped and  
[22] placed him under arrest?  
[23] A. No.  
[24] MR. MEEHAN: Thank you.  
[25] THE COURT: Mr. Campbell, do you have

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[1]  
[2] any questions?  
[3] MR. CAMPBELL: I have no questions.  
[4] MS. ROBINSON: Judge, I have no more  
[5] questions of this witness. I have Officer  
[6] Reynolds who actually did the actual arrest  
[7] given that my understanding is that counsel is  
[8] moving to suppress the keys.  
[9] THE COURT: Okay. Officer Reynolds.  
[10] MS. ROBINSON: Officer Reynolds.  
[11] ...OFFICER BRIAN REYNOLDS, Badge  
[12] Number 4268, Narcotics Field Unit, sworn...  
[13] MS. ROBINSON: May I proceed?  
[14] THE COURT: You may proceed.  
[15] DIRECT EXAMINATION  
[16] BY MS. ROBINSON:  
[17] Q. Officer Reynolds, did you have occasion to  
[18] participate in the arrest of any person or persons  
[19] whom you see here today in court?  
[20] A. Yes, Kareem Torain and Anthony Hodges.  
[21] Q. And who did you participate in the arrest of  
[22] first?  
[23] A. Kareem Torain.  
[24] Q. And at approximately what time did that occur?  
[25] A. Approximately 2:58 p.m., Your Honor, 3 o'clock

[1]  
[2] p.m. at 51st and Nassau Road.  
[3] Q. Would you tell His Honor what were the facts  
[4] and circumstance surrounding your arresting the  
[5] defendant?  
[6] A. Yes. Based on him leaving the property at  
[7] 55th Street, I followed him out of the area, he was  
[8] inside the green Pontiac Bonneville. I then went  
[9] over police radio with the aid of marked units,  
[10] followed the defendant to 61st Street and Nassau  
[11] Road where we then stopped the car. At this time  
[12] myself and uniformed officers stopped him. He was  
[13] placed under arrest by myself. Recovered from him  
[14] was a pager, a Nextel cell phone, one cancer key  
[15] ring with five keys on it, one black key ring with  
[16] three keys on it. One of those keys worked the  
[17] front door to the apartment 1628 North 55th Street.  
[18] Q. What did you do with those keys?  
[19] A. Those were turned over to Officer Monaghan and  
[20] placed on property receipt 2308207. Also recovered  
[21] from him was \$250 USC and that was placed on  
[22] property receipt 2308208.  
[23] Q. After you had uniform take the defendant into  
[24] custody, at what time did you have or participate  
[25] in the arrest of Anthony Hodges?

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[1]  
[2] A. That was approximately 3:20 p.m.  
[3] **MS. ROBINSON:** And again may the  
[4] record reflect the witness has identified both  
[5] defendants.  
[6] **BY MS. ROBINSON:**  
[7] **Q.** Would you tell His Honor what were the facts  
[8] and circumstances surrounding arresting the  
[9] defendant Anthony Hodges?  
[10] **A.** Yes, Your Honor, based on Officer Monaghan, he  
[11] said that Anthony Hodges just left in maroon sedan  
[12] vehicle going southbound on 56th Street. Again  
[13] once again with the aid of a marked unit, stopped  
[14] that vehicle in the intersection of 56th and  
[15] Market, at which time he was placed under arrest by  
[16] myself. Recovered from his jacket pocket was five  
[17] blue tinted ziplock packets, each containing  
[18] alleged marijuana, and also key ring containing  
[19] three keys. One of those keys worked the front  
[20] door to 5607 Master Street, Your Honor.  
[21] **Q.** What did you do with those keys?  
[22] **A.** The narcotics, the keys were turned over to  
[23] Officer Monaghan which were placed on a property  
[24] receipt and the narcotics were placed on property  
[25] receipt 2308205.

[1]  
[2] **MS. ROBINSON:** I have no more  
[3] questions of this witness.  
[4] **THE COURT:** Cross-examine.  
[5] **MR. MEEHAN:** Thank you.  
[6] **BY MR. MEEHAN:**  
[7] **Q.** Just a few questions. Officer, you had not  
[8] made any observations of my client doing anything;  
[9] correct?  
[10] **A.** Correct.  
[11] **Q.** Okay. You were simply acting on the  
[12] directions of Officer Monaghan?  
[13] **A.** Correct, and at times Officer Walker.  
[14] **Q.** And officer?  
[15] **A.** Officer Walker.  
[16] **Q.** Okay. You pull my client's car over, correct,  
[17] or -- are you in a marked unit?  
[18] **A.** I was in an unmarked unit in plain clothes. I  
[19] had marked units with me.  
[20] **Q.** They I guess by use of their domelights had  
[21] him pull over, is that correct?  
[22] **A.** Actually he parked, I believe it was on  
[23] northwest corner and exited and that's when myself  
[24] and the other uniformed officers converged on him.  
[25] **Q.** Okay. And you told him that he was under

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[1]  
[2] arrest, I guess?  
[3] **A.** Correct.  
[4] **Q.** You started searching him at that time;  
[5] correct?  
[6] **A.** Correct.  
[7] **Q.** To see if any of the drugs or money or weapons  
[8] were on him; correct?  
[9] **A.** Correct.  
[10] **Q.** Okay. You found some money?  
[11] **A.** Correct.  
[12] **Q.** Okay. You didn't find any weapons or any  
[13] narcotics or any drugs; correct?  
[14] **A.** Correct.  
[15] **Q.** Okay. And just for the record, you didn't  
[16] have a warrant to arrest him, correct, you were  
[17] acting on the orders of Officer Monaghan?  
[18] **A.** Correct.  
[19] **MR. MEEHAN:** Thank you.  
[20] **THE COURT:** Thank you.  
[21] Mr. Campbell.  
[22] **BY MR. CAMPBELL:**  
[23] **Q.** Officer, at the direction of Officer Monaghan  
[24] you stated you stopped this defendant Anthony  
[25] Hodges around 3:20; is that correct?

[1]  
[2] **A.** Correct.  
[3] **Q.** And at the time that you first encountered him  
[4] where was he?  
[5] **A.** The uniform sergeant stopped him at 56th and  
[6] Market in the intersection, I believe cut in front  
[7] of his vehicle.  
[8] **Q.** Okay. So he had already been stopped, Mr.  
[9] Hodges was already -- when you first saw Mr.  
[10] Hodges, he was already stopped by one of your  
[11] brother officers in uniform?  
[12] **A.** I was right there with the sergeant. In other  
[13] words, the sergeant pulled his vehicle in front of  
[14] him, myself and other officers got out of our  
[15] vehicle and got him out of his vehicle.  
[16] **Q.** Is it fair to say you stopped at the same time  
[17] he stopped?  
[18] **A.** Correct.  
[19] **Q.** The description you got from Officer Monaghan  
[20] was that he was in a maroon sedan, I believe that's  
[21] what you said?  
[22] **A.** A maroon Plymouth sedan maroon in color. He  
[23] did give me a clothing description. I don't  
[24] recall it off hand.  
[25] **Q.** All right. On the maroon Plymouth sedan there



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[1]  
[2] was no description of the number of occupants in  
[3] the car?  
[4] **A.** The police said he was driving and there was a  
[5] female also in the car with him.  
[6] **Q.** But this defendant was driving?  
[7] **A.** Correct.  
[8] **Q.** And so you with the help of your brother  
[9] officers pulled him out of the car and recovered  
[10] from him was a set of three keys; is that right?  
[11] **A.** Keys and five packets of marijuana.  
[12] **Q.** And the five packets of marijuana, that's  
[13] right. And there was no money on him; is that  
[14] right?  
[15] **A.** Correct.  
[16] **MR. CAMPBELL:** That's all I have.  
[17] **THE COURT:** Any redirect?  
[18] **MS. ROBINSON:** No.  
[19] **THE COURT:** Officer. Thank you very  
[20] much.  
[21] **MS. ROBINSON:** Your Honor, at this  
[22] time the Commonwealth moves into evidence the  
[23] two tapes which have been marked as  
[24] Commonwealth's Exhibit C-1 and C-2 for  
[25] identification purposes only.

[1]  
[2] **THE COURT:** They're admitted.  
[3] **MS. ROBINSON:** Thank you. And the  
[4] Commonwealth rest for purposes of the Motion to  
[5] Suppress the items that were recovered pursuant  
[6] to the arrest.  
[7] **THE COURT:** Mr. Meehan, do you have  
[8] any evidence?  
[9] **MR. MEEHAN:** No, Judge.  
[10] **THE COURT:** You rest.  
[11] Mr. Campbell, you rest also?  
[12] **MR. CAMPBELL:** Yes.  
[13] **THE COURT:** Okay. Argument.  
[14] **MR. MEEHAN:** May I?  
[15] **THE COURT:** Yes.  
[16] **MR. MEEHAN:** Thank you.  
[17] Your Honor, this is a situation where  
[18] the Commonwealth, Your Honor, they have to have  
[19] probable cause to believe that my client has  
[20] committed a crime. They have three days of  
[21] surveillance, two on videotape. At most what  
[22] they see is my client drive up to the location.  
[23] Mr. Delee get into the car momentarily and then  
[24] leave the car.  
[25] Officer Walker sees a baggie, but he

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[1]  
[2] can't describe what's in it. They then follow  
[3] What my client do is he goes to Conestoga  
[4] Street. He then leaves Conestoga Street and  
[5] goes to this other location. They don't know  
[6] where he goes in this location. They believe  
[7] he goes into this middle room, but nobody sees  
[8] where he goes.  
[9] **THE COURT:** They see a light go on.  
[10] **MR. MEEHAN:** They see a light go on.  
[11] There's other apartments in the building. It's  
[12] 3 o'clock in the afternoon. You saw what the  
[13] lighting was out there that day. I would  
[14] suggest to the Court you wouldn't necessarily  
[15] need the light on, but be that as it may, what  
[16] they don't see is they don't see my client ever  
[17] receive or get anything or give anything to Mr.  
[18] Delee or any of these other individuals. They  
[19] don't see Mr. Delee or any of these other  
[20] gentlemen have any contact with my client on  
[21] the North 55th Street.  
[22] I would concede that they might have  
[23] some reasonable suspicion to stop, however, at  
[24] this situation at this time because what they  
[25] do is they conduct a full custodial search,

[1]  
[2] they need probable cause to believe that he's  
[3] been involved in criminal activity and they  
[4] don't have it based on these limited  
[5] observations.  
[6] Again, maybe they have some  
[7] reasonable suspicion based on the fact that he  
[8] was out there, but because as I said this is  
[9] not a situation where they ask him some  
[10] questions and pat him down to see what's going  
[11] on or see what he's doing, they don't do any of  
[12] that, they just go in and they make the arrest,  
[13] but they haven't seen him commit any crimes.  
[14] In fact, they've seen him have some tangential  
[15] contact with people, but they didn't see him do  
[16] anything at all either at the location or at  
[17] this other location. They don't even know that  
[18] he's even had any contact with Mr. Delee and  
[19] these other people.  
[20] Again, I'm willing to concede that  
[21] they have a reasonable suspicion, but that's  
[22] not what they need to do. They needed the  
[23] probable cause and I would suggest to the Court  
[24] that they don't have probable cause. They  
[25] don't have enough evidence to believe that he's



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[1] been involved in criminal activity so that it  
[2] would enable them to go up and search him,  
[3] place him under arrest and seize anything from  
[4] him.  
[5]  
[6] Reasonable suspicion, yes, quite  
[7] possibly. A patdown may have been appropriate,  
[8] but a full custodial search is beyond the  
[9] evidence that they had at that point and  
[10] therefore the Court should suppress the keys  
[11] that they seized from him at that time as well  
[12] as the money and the pagers and the phone.  
[13] Thank you.  
[14] **THE COURT:** Thank you.  
[15] Mr. Campbell.  
[16] **MR. CAMPBELL:** Yes, Your Honor, if I  
[17] may. Well, unfortunately Mr. Hodges doesn't  
[18] have it as well as the co-defendant for  
[19] purposes of the motion, but I would submit to  
[20] Your Honor under Malson and Banks and that  
[21] whole line of cases certainly the fact that the  
[22] evidence that you heard today fall within the  
[23] ambit of that line of cases.  
[24] You have three full days of  
[25] surveillance starting on the 2nd, which is the

[1] day that would be the most incriminatory for  
[2] Mr. Hodges. I find it sort of interesting that  
[3] none of that evidence is on video, but that's  
[4] fine because the Court is aware and we're all  
[5] aware that video is never necessary for that  
[6] kind of thing, but what is significant, Your  
[7] Honor, is that none of the objects were  
[8] observed. None of the denominations of the  
[9] bills can be ascertain, so therefore we have an  
[10] exchange of unidentified objects of what  
[11] appears to be U.S. currency. Clearly Malson  
[12] and Banks, that's part of it. There was no  
[13] conversation heard, so what you have is a  
[14] number of suspect encounters in the light most  
[15] favorable to the Commonwealth.  
[16] What we have coupling this is one or  
[17] two or three, at least one stop of a buyer so  
[18] that there are drugs recovered so that one can  
[19] conclude that the nature of the transactions  
[20] were narcotics transactions, but here a buyer  
[21] is never stopped at any time.  
[22] Now, that may be more of a trial  
[23] issue, but the point of the matter, Your Honor,  
[24] is that after three days of this surveillance  
[25]

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[1] my client is stopped in this Breeze and then  
[2] when he is stopped they still they don't find a  
[3] significant amount of money on him which is  
[4] something to be considered under these  
[5] circumstances. What they do find are I think  
[6] it was five packets of marijuana which I guess  
[7] conceivably could have been for his personal  
[8] use, but we won't go into that argument because  
[9] that's not really relevant now. There's no  
[10] large amount of cash that would indicate he was  
[11] involved in anything.  
[12] Your Honor, basically the long and  
[13] short of it is that under the circumstances I  
[14] think that he was just barely more than merely  
[15] present and the Commonwealth still even at this  
[16] level has not met its burden of showing that  
[17] probable cause existed for a full custodial  
[18] arrest and I take it that there is no  
[19] contention that he was not arrested, that he  
[20] was not under arrest when he was stopped.  
[21] **THE COURT:** I think that's pretty  
[22] much conceded. Yes, okay.  
[23] Ms. Robinson.  
[24] **MS. ROBINSON:** If I may, Judge,  
[25]

[1] certainly with respect to both of these  
[2] defendants the officers are looking at this  
[3] whole web of activity that takes place over  
[4] three days and Anthony Hodges and Delee are  
[5] seen on the 2nd sharing a golf ball size baggie  
[6] of narcotics and are selling it and that golf  
[7] ball size packaging is consistent with other  
[8] golf ball size packages that are used as the  
[9] stash to sell from over the course of the drug  
[10] activity that's going forth from the porches  
[11] and the blocks at 56th and Master Street.  
[12] Certainly Anthony Hodges is subject  
[13] to arrest lawful, he is observed selling on  
[14] several occasions. On the 2nd he's on tape  
[15] selling on at least --  
[16] **THE COURT:** Counsel makes a point  
[17] that they're just observed, it maybe could have  
[18] been tootsie rolls.  
[19] **MS. ROBINSON:** You could say that if  
[20] it was one person or you might say that if it  
[21] was two.  
[22] **THE COURT:** How many sales were there  
[23] in Banks? One?  
[24] **MR. CAMPBELL:** Two.  
[25]

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[1]  
[2] **THE COURT:** I apologize.  
[3] **MS. ROBINSON:** Well, we're way past  
[4] that also with all of the interaction with all  
[5] the other individuals. Surely no one believes  
[6] they were selling tootsie rolls in the 5600  
[7] block of Master Street, Judge.

[8] Certainly when you look at the kind  
[9] of activity that was going on and the  
[10] exchanges, the only rational conclusion is that  
[11] they're selling narcotics from that location.  
[12] You also get to see close up on several  
[13] occasions the kind of packaging and the green  
[14] tint of the packaging that's consistent over  
[15] different transactions that take place, the  
[16] same kind of similar shift when everybody seems  
[17] to wake up late in the morning around 11  
[18] o'clock and get into their round drug selling.

[19] Judge, certainly under these  
[20] circumstances what you have here is that  
[21] Darnell Delee is calling to be reupped and you  
[22] can see there's a lot of activity and motion  
[23] down to the pay phone.

[24] **MR. CAMPBELL:** Your Honor, I object  
[25] to facts not in evidence.

[1]  
[2] **MS. ROBINSON:** Well, Judge, Officer  
[3] Monaghan testified and he pointed out to you on  
[4] the tape the time that Darnell Delee calls over  
[5] to a co-defendant Kabian Diggs and said yeah,  
[6] Kareem only had a bundle at this time.

[7] **MR. MEEHAN:** Objection. That was not  
[8] the testimony.

[9] **THE COURT:** That is correct, it was  
[10] not -- that was not the testimony.

[11] **MS. ROBINSON:** Well, he'll call over  
[12] when the rest -- he only had a bundle, he'll  
[13] call over when the rest is ready.

[14] **THE COURT:** Okay.

[15] **MS. ROBINSON:** And what you have are  
[16] the observations of Jeff Walker who sees  
[17] Darnell Delee with a bundle similar to other  
[18] bundles that we've seen Darnell Delee with and  
[19] have heard testimony about coming out of a car  
[20] that is later found to be occupied by one  
[21] person, Kareem Torain.

[22] **MR. MEEHAN:** Judge, again, that's not  
[23] Officer Walker's testimony. He was unable to  
[24] identify what was inside.

[25] **MS. ROBINSON:** Later on he identifies

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[1] Kareem Torain getting out from it.  
[2] **THE COURT:** Excuse me. Mr. Meehan,  
[3] if you want to argue again, I will give you the  
[4] opportunity, but I'd ask you not to interrupt.

[5] **MR. MEEHAN:** My apologies.

[6] **MS. ROBINSON:** The reasonable  
[7] inference is that since nobody else is seen  
[8] getting out of the car, nobody else is seen  
[9] getting into the car, that the only person in  
[10] that car is Kareem Torain during the relevant  
[11] period of time and that when you see Darnell  
[12] Delee coming out with a bundle, the bundle  
[13] being referred to when he talks to Kabian Diggs  
[14] is this is the bundle I just got, and call us  
[15] when it's ready, and then sure enough some time  
[16] later about 20 minutes or so Delee and Diggs  
[17] and Freeman leave the block, Monaghan says keep  
[18] an eye out, look for them, and where do they  
[19] show up? 1628 North 55th Street at the same  
[20] location that you see this defendant go to  
[21] after he goes to the place that is his legal  
[22] residence and this defendant goes in, and keep  
[23] in mind it's the wintertime, people do turn  
[24] their lights on in the afternoon in the  
[25]

[1] wintertime  
[2] He goes into that property utilizing  
[3] the key. He goes in, Officer Walker gets out  
[4] of his surveillance vehicle, walks around, sees  
[5] the light going on. One needs to not check  
[6] one's common sense at the door, but realize  
[7] that if all that occurred, the person who is in  
[8] that room where the light just went on is this  
[9] defendant and when those individuals, Delee,  
[10] who he's just been in the car with within the  
[11] hour shows up with two other individuals, it  
[12] means that they're coming to get more narcotics  
[13] to sell.

[14] They go in, they come out, Delee is  
[15] holding another golf ball size object that  
[16] Officer Walker testified he believed to be  
[17] narcotics, connecting all the dots, the  
[18] reasonable inference from all the circumstances  
[19] is that this defendant was supplying narcotics  
[20] to the other individuals who are in the  
[21] conspiracy to sell drugs and under all those  
[22] circumstances, it was appropriate to arrest  
[23] them and they did and what they recovered from  
[24] them were the keys and then pursuant to that  
[25]

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[1]  
[2] they obtained a warrant and searched that  
[3] location, but the Commonwealth submits his  
[4] arrest was lawful and so what was recovered  
[5] from him was admissible as evidence and that  
[6] the Commonwealth should be able to introduce  
[7] those keys.

[8] **THE COURT:** Thank you. Ms. Robinson.  
[9] Mr. Meehan, if you need to respond,  
[10] I'll give you the opportunity.

[11] **MR. MEEHAN:** Thank you, Judge.

[12] You picked up on the one thing which  
[13] was my client's name was never mentioned and  
[14] again these are statements -- his statement is  
[15] somehow missed when it's being made, somehow  
[16] missed when being made off camera, and also I  
[17] think it's important to point out that Officer  
[18] Monaghan had previously testified that while  
[19] inside he wasn't able to hear what, if any,  
[20] conversation --

[21] **THE COURT:** But this was not in  
[22] conversation between people who were real close  
[23] to each other.

[24] **MR. MEEHAN:** That's right. There was  
[25] a hollering.

[1]  
[2] **THE COURT:** That's correct, so that's  
[3] a different circumstance.

[4] **MR. MEEHAN:** Yes. And also that  
[5] Officer Walker specifically stated that while  
[6] he saw a golf ball size item, he was unable to  
[7] identify what, if anything, that was when he  
[8] was inside the plastic bag.

[9] Thank you.

[10] **THE COURT:** All right. Thank you.  
[11] Do you feel a need to respond?

[12] **MR. CAMPBELL:** I don't, Your Honor.

[13] **THE COURT:** Okay. Well, let me just  
[14] say first with respect to Mr. Hodges, his  
[15] attorney is absolutely correct. Unfortunately  
[16] for Mr. Hodges I think the Commonwealth has  
[17] clearly made out -- this is not what counsel  
[18] argued, but counsel argued that unfortunately  
[19] he doesn't have the same strong argument that  
[20] Mr. Meehan had, but I clearly feel as to Mr.  
[21] Hodges there was probable cause in making the  
[22] arrest and as to Mr. Hodges, the motion is  
[23] denied.

[24] As to Mr. Torain, I concede that it  
[25] is close, but I think that in this circumstance

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[1]  
[2] common sense does play a role in a judge's  
[3] determination and it seems to me that there is  
[4] certainly sufficient evidence to create  
[5] probable cause that the defendant was involved  
[6] in the conspiracy though he was never seen  
[7] actually engaged in a transfer of drugs, but  
[8] it's clear to me that there was probable cause  
[9] to believe that he was a conspirator in that  
[10] circumstance and I accordingly will deny the  
[11] motion as to Mr. Torain.

[12] All right. Let me see counsel in the  
[13] back for a moment.

[14] (Discussion in chambers off the  
[15] record)

[16] **THE COURT:** All right. According to  
[17] our conversation we will recess at this point  
[18] and adjourn until tomorrow morning this case at  
[19] 10:30 and based on what counsel has represented  
[20] about their obligations tomorrow, if you have a  
[21] problem getting here by then, just call, let  
[22] Michelle know, we'll accommodate all counsel in  
[23] that respect.

[24] Okay. Thank you very much.

[25] **MR. MEEHAN:** Thank you, sir.

[1]  
[2] **COURT CRIER:** This case is in recess  
[3] until 10:30 tomorrow morning.

[4] (Whereupon the Motion to Suppress was  
[5] concluded)

[6] (Court adjourned)  
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[4] I hereby certify that the proceedings  
[5] and evidence are contained fully and accurately  
[6] in the notes taken by me on the trial of the  
[7] above cause, and that this copy is a correct  
[8] transcript of same.

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